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William Squire Kenyon and the Kenyon - Duncombe - Williams - Squire family histories. 1935

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To

MARY DUNCOMBE KENYON,

wife and sweetheart of

SENATOR KENYON

for over forty years,

and my friend and helper in the

preparation of these pages,

this volume is gratefully dedicated.

THE AUTHOR.

Acknowledgment

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THE AUTHOR.

CONTENTS

	Page
Prologue	1
Chapter One—Formative Years: 1869-1890	5
Selects a Profession	10
Chapter Two—Early Career: 1891-1911	13
Takes First Public Office	16
Elevated to the Bench	17
Becomes Railroad Attorney	19
Acquires Fame as Trust Busting Assistant Attorney General	22
Elected to the United States Senate	26
Chapter Three—Statesman: 1911-1922—Major Concerns	33
Fulfills Promise on Lorimer Case	35
Would Sharpen Antitrust Law Teeth	38
Opposes Separate Progressive Party	42
Strengthens Anti-Liquor Laws	44
Supports Tariff Reduction	46
Champions Federal Child Labor Legislation	48
"First, Why a Child-Labor Law at All?"	50
"As to the State"	50
"The Need of a Child-Labor Law for the Child Itself"	52
"Need of a National Child-Labor Law"	52
"Constitutionality of a National Child-Labor Law"	53
Lays Aside Peace for War	54

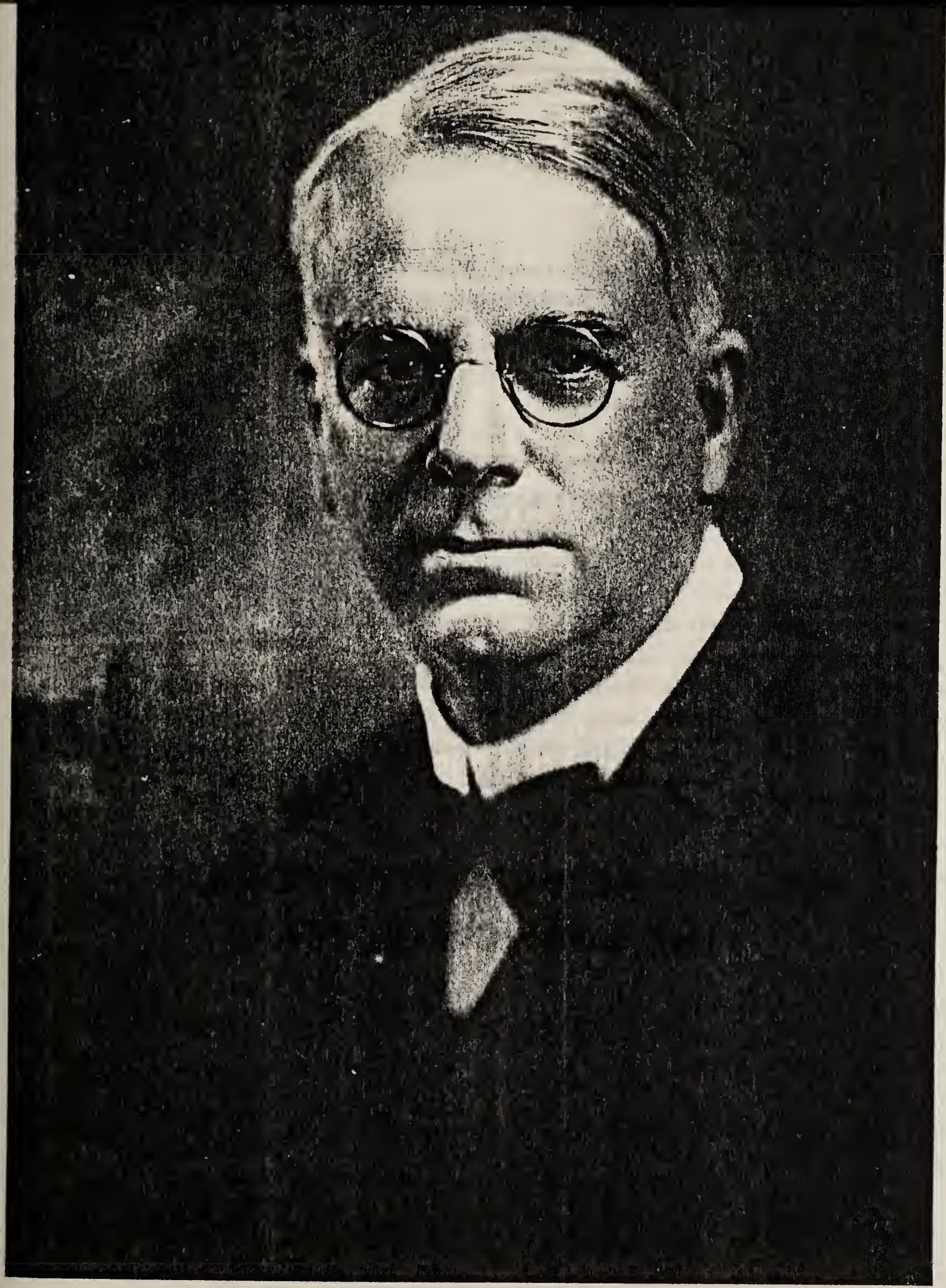
CONTENTS

	Page
Sustains Hoover Food Control	58
Works for Slovak Liberty and is Decorated	59
Denounces Liquor Traffic and Demands Prohibition	60
Advocates Cancellation of French War Debt	64
Achieves Packing Industry Control Legislation	65
Demands League of Nations Reservations	68
Becomes a Federal Judge	70
Chapter Four—Statesman: 1911-1922—Lesser Interests	75
Attacks Waste of Public Funds	78
Americanization Bill	80
Interest in Maternity and Infancy Protection	82
Propose Tribunal for Labor Disputes	83
Would Tax Profiteers for Soldiers' Bonus	84
Chapter Five—Federal Jurist: 1922-1933	87
Declines Cabinet Post and Presidential Candidacy	92
Orders Restoration in Teapot Dome Fraud	95
Individual Report on Prohibition Investigation	98
"I Have Finished My Course"	117
Chapter Six—Conclusion	119
Remarks of a Judicial Brother	124
Eulogy of an Old Friend	128
The Minister's Final Word	131
Duncombe Family	137
Williams Family	145
Squire Family	149
Bibliography	157

ILLUSTRATIONS

William Squire Kenyon		*Frontispiece*
William S. Kenyon's Birthplace, Elyria, Ohio	*facing page*	4
Rev. Fergus Lafayette Kenyon	" "	8
Mary J. Duncombe (Mrs. William S. Kenyon)	" "	16
William S. Kenyon (at the time of his election to the Senate)	" "	36
William S. Kenyon (during his service in the Senate)	" "	78
William Squire Kenyon	" "	92
William Squire Kenyon (standing on steps of his summer office, Sebasco Estates, Maine	" "	118
Duncombe Arms	" "	134
Kenyon Arms	" "	135
Eli Duncombe	" "	138
J. F. Duncombe	" "	139
Mary Augustine (Williams) Duncombe	" "	141
Judith Lloyd (McConnell) Williams James Blakely Williams Mary Augusta (Williams) Duncombe Major William Williams	"	146

Prologue



W J Kerrigan

"Of Equality—As if it harm'd me,
giving others the same chances and
rights as myself—As if it were
not indispensable to my own rights
that others possess the same."

—*Walt Whitman.*

ILLIAM SQUIRE KENYON attained state-wide and nation-wide prominence during the years 1911 to 1933. That was the period of his greatest activity. A Republican, in a state that had been predominantly Republican for its entire existence, his eminence came not through strict adherence to the tenets of the old régime, but rather through the espousal of the cause of the Progressives. Among the "standpatters" or regulars, the Progressives were derogatorily designated as "radicals" or "insurgents"; the latter term being adopted previous to 1910 by the public press. These "insurgents" were doing such disturbing things, as combining with the Democratic element of the Congress, to force legislation they desired, or to block party bills to which they were opposed. Their belief that the older division of the party was in the hands of "the interests" was the motivation for such unseemly conduct; unseemly in the eyes of those to whom party meant more than public welfare or a sense of duty. "The interests" and "the trusts" were the bugaboos of the day and public sentiment, particularly in the mid-west and north-west sections of the nation, was overwhelmingly in favor of "trust-busting" and any legislation that would accomplish it. The regular Republicans saw no occasion for all the furor and were more or less content to let things go on; in the famous words of Mark Hanna, to "stand pat." Backed by public opinion the "Insurgent" Republicans became Progressive Republicans, leaders of a powerful element in the state of Iowa and in the nation. It was in 1911 that the younger element exerted its waxing strength and wrested the Iowa senatorial election from the regulars of the party. The successful candidate was the young "trust-busting" Assistant to the Attorney General, William Squire Kenyon.

Judge Kenyon had heretofore aspired to no legislative public office. His interest had been primarily enforcing and construing the law, not the making of it. He was an individualist, in the sense that he believed the only legislation necessary was that which would confirm to the common people their right to determine their own destiny, and to strive for its fulfillment. The maintenance of equal rights for men, no matter what their station, was his aim. Control of big industry, to admit of the small business man's success, had been, and was to continue, an absorbing passion with him. Extremely independent in nature, he would recognize no right to control his legislative activities other than that of a majority of his constituents. This individualistic and independent attitude was a heritage from generations of American pioneer ancestry. His forbears had traveled many miles from Connecticut to Ohio and Iowa, always on the outer fringe of colonization; a mode of existence that fostered self-reliance. His father, a man of intellectual power, had left his native eastern coast of the United States to put into practice his chosen worldly commission in the Western Reserve, and later in that portion of the Louisiana Purchase which had before his arrival become the state of Iowa. This all had its effect upon William Squire Kenyon. His attitude, a natural product of frontier life, was also, in a sense, the outgrowth of personal experience. His boyhood and young manhood were spent in much of the frontier atmosphere that remained in Iowa for some years after the Civil War. His individualism had become tempered with the sensible and logical understanding that each individual might seek his highest welfare only when it was compatible to the good of all. The attitude of some men made it necessary to exert a measure of control in order to preserve the opportunity for action to those who were more altruistic or less fortunate. That, no doubt, was the belief that strengthened the attacks of William Squire Kenyon upon monopolies.

The career of Judge Kenyon mirrored his beliefs. As Assistant to the Attorney General he had special charge of much of the work of destroying, or attempting to destroy, the Beef Trust, and the rebate system whereby railroads fostered trusts. He carried with him to the United States Senate his striving to gain absolute control over the conditions that gave rise to trusts. There, under his unceasing efforts, much that he desired was attained, although not often enough at the full strength of his original proposals. His constant war on monopolies did not cease with his rise to the Federal bench, for the driving force of the man's political and public life did not soon lose impetus.

The public mind of Iowa, always a guiding influence in Judge Kenyon's activities, particularly in the Senate, was focused also on farming and farm conditions. The chief support of traditional individualism in America lies in agriculture. Iowa has been, and is, an agricultural state; almost ninety per cent of its land is under cultivation. To aid his constituents, and all farmers in general, was Senator Kenyon's purpose when he

formed the famous Farm Bloc. This body of Senators, principally from the mid-west states, threw aside all party barriers when it came to farm legislation—Democrats and Republicans were banded together for the common good of the farmer as they interpreted his needs. They accomplished much that was to their purpose because their leader under no circumstances would give ground even before an overwhelmingly adverse majority. Producing or effecting among others the Kenyon-Anderson Bill, the Sheppard-Towner Bill, the Norris Farm Export Bill and the Fordney-McCumber Tariff, this group was for eleven years a leading factor in farm-labor legislation of a progressive and liberal nature. Progressive and liberal ideals in legislation were the governing principles of the Progressive Republicans of Iowa, who had chosen Senator Kenyon as their champion. In the senior house of Congress the Progressives had worked under the able leadership of Jonathan P. Dolliver, upon whose death Senator Kenyon had been elected. As his predecessor had done, so did William Squire Kenyon. With a non-partisan attitude toward all legislation, which was sustained by a desire for equal treatment for all people, he, with others of his belief, soon brought the Progressive Republicans into national prominence. Coincidental was the formation of the Farm-Labor Party based upon the working precepts of the Farm Bloc. Theodore Roosevelt espoused the cause and the Progressive Party was formed. Not a factor in this new party formation, nor even a member, Senator Kenyon held similar beliefs. Just what he and his co-workers were striving for may be summed up in a brief statement of their platform; primary nomination of senators, initiative and referendum, abolition of trusts, reduction of the tariff, and the abolition of child labor. The most attractive to the public mind in the earlier years of the century was the anti-trust plank.

The situation is not the same today. "Coöperation can do more than competition" is opposed to the old belief that competition is "the life of trade." Much of the criticism of present governmental policy comes from those who believe in the old individualistic rights. Judge Kenyon was one of those, but whether he would object to present methods can never be known. His attitude may be inferred from some of the provisions he presented for the control of trusts early in his senatorial career. The original provisions of the Kenyon portion of the Kenyon-Anderson Bill to control the meat packing industry, were far from those finally accepted. They were deemed too drastic; were said to "smack of bureaucracy." These and other phases were used that now may be heard in criticism of a policy that may be considered diametrically opposite. One of Kenyon's suggestions was to establish a permanent board of control whose sway was to be all powerful over the packing industry, licensing or denying licenses, regulating prices and preventing combinations in restraint of trade. A recent series of articles by General Hugh S. Johnson has spoken of the similarity between this "High Court of Commerce" idea

and the NRA. William Squire Kenyon was always cognizant of the public wish, and respectfully considerate thereof. Possessing to a remarkable extent the judicial mind, and recognizing the rights of the people before that of party, or even personal belief, his opinion would be, if he were present, much as his expressed opinion on that other great controversy of our modern era, prohibition; *let the will of the people be done.*

WILLIAM S. KENYON'S BIRTHPLACE, ELYRIA, OHIO

"The Farm—Best Home of the Family—Main Source of National Wealth—Foundation of Civilized Society—The National Providence."

—Above the entrance to the Union Station at Washington, D. C.

To consider a man independent of his environment is unwise, and that environment in the case of William Squire Kenyon was largely the state of Iowa.

Agriculture and Iowa have become practically synonymous through the years. The natural advantages of the territory have been unrivaled. The eyes of Marquette, the missionary, and of Joliet, the fur-trader, first viewed, not the "howling wilderness," a term used to describe all frontiers, but a level prairie land, luxurious in its vast open fields. No immense forests with tangled undergrowth barred the way to those who would explore or settle. Only sparing clumps of trees, as though to relieve the monotony, were visible along the courses of the streams now known as the Des Moines, the Missouri and the Mississippi rivers. Such ideal farm land was beyond the dreams of New Englanders plowing their stumpy and stony soil.

The methods of man are strange, however, and the first settlement in Iowa, by Julien Dubuque, was solely for the purpose of mining lead. The mining activities, coupled with the little farming necessary for livelihood, lasted for twelve or more years, until the depredations of the Indians of the vicinity forced a removal. The Indians were not the Ioways, the original inhabitants of the territory, but the more ferocious Sac and Fox tribes. As to white ownership, the land had been claimed by the French because of the explorations of Marquette and Joliet. It was ceded by France to Spain and some years later reacquired. As a part of the Louisiana Purchase it came into the possession of the United States Government. The terms of the purchase forbade settlers, but the hardy pioneers went in, some to stay permanently and others to return to less primitive surroundings. Because of their actions the two types were given special designations. Those who came and stayed were termed "badgers," while those who came up in spring and returned before winter were termed, after the fish of the same habit, "suckers." It

was the "badgers" who resettled Dubuque, and reoccupied the abandoned military stations. As a part of Missouri, then Michigan and finally Wisconsin, Iowa became an independent state of the Federal Union by the efforts of this group.

Iowa was kind to her settlers. Unsurpassed in the quality of her land, she gave lavishly of her bounty. Cultivated areas increased by leaps and bounds until practically ninety per cent of the state was working agricultural soil. Iowa has been, and no doubt will continue to be, first in the United States in the value of the products of her farms. But there was sorrow amid sunshine when the northern settlers were harassed by Indian tribes. The horrible Spirit Lake Massacre took place in 1857. John F. Duncombe and his father-in-law to be, Major William Williams, father and grandfather of Mrs. William Squire Kenyon, achieved fame in the expedition which followed. This massacre was responsible for the retarded development in and about Fort Dodge for many years. The courage of the pioneers was such, however, that soon the north portion of the state was as populated and productive as the remainder.

From the beginning the government of Iowa has been predominantly in the hands of the Republican party. Such was the wisdom of its framers that the state constitution has been remarkably free from amendments. The citizens must vote once in ten years on calling a convention to revise the constitution. All amendments to it must receive in two successive legislatures the majority vote of both houses and then be finally approved by popular vote. That the governing policy of Iowa has been eminently satisfactory to the citizens of the state is attested to by the constant return of the Republican party to power. Another equally popular feature of Iowa policy has been the educational system.

Education in Iowa has been wonderfully successful. The public school system, capped by the State University, has produced a people whose literacy record is second to none. The literacy census of the nation has placed Iowa at the head of the list for many years. It lost first place one year, 1910, but even that year there were only 1.7 per cent. of illiterates as compared with the national average of 6 per cent. It was here that William Squire Kenyon received his education. It was in this state and under these influences and conditions that he grew to manhood. While the farm life of Iowa was only a minor part of his environment, its effect upon his character may not be overestimated for the farm, directly or indirectly, was the all pervading influence in the life of every citizen of the state. Although rightly considered a product of Iowa and a descendant of Scotch and English stock, as were a majority of Iowa's settlers, Senator Kenyon was not born there.

The son of the Reverend Fergus Lafayette and Harriet Anna (Squire) Kenyon, William Squire Kenyon was born June 10, 1869, in a simple white frame house on Second Street, Elyria, Ohio. His father, son of Fergus and Helen Kenyon, natives of Scotland,

REVEREND FERGUS LAFAYETTE KENYON

was born December 4, 1833, at Scotia, New York. Fergus Lafayette Kenyon was taken by his parents to Hartford, Connecticut, where the family group made its domicile. The young potential minister prepared for college at local schools and then entered the College of New Jersey, now Princeton University, graduating therefrom as a Nassau Hall student in 1859. He then entered Princeton Theological Seminary, and completed his course in 1863. A year of tutorial work at the College of New Jersey followed, and on August 6, 1864, the youthful seminarian was ordained by the Presbytery of Newark as pastor of a church in East Orange, New Jersey. As the first leader of the Munn Avenue Presbyterian Church of that town the young minister successfully gathered together and guided his flock for two years or more. It was here also that the Reverend Mr. Kenyon met and successfully wooed a young woman from Connecticut, Harriet Anna Squire. The Cleveland Presbytery on July 2, 1867, placed him in charge, as the eighth pastor, of the Presbyterian Church in Elyria, Ohio. He made the journey alone, and several weeks later was joined by his wife and an infant son, William's older brother. The parsonage, William Squire Kenyon's birthplace, was a favored spot for the meetings of the townspeople, who remember to this day the Reverend Fergus Lafayette Kenyon as a lovable minister, a loyal friend, and a model neighbor.

With the expanding Union the Kenyon family moved westward to St. Joseph, Missouri. The younger boy was but a year old. For a period of eight years the group, increased once more during that time by the birth of a girl, Charlotte, remained in that city. William, rapidly approaching the age of discretion, was largely trained at home by his father, a man of learning and more than adequate teaching ability. The boy was being prepared for the ministry and in all probability acquiesced at the time. During these years a strong attachment grew between the son and his mother, whose precepts exerted a major influence on his later life. The attachment increased through the extent of her lifetime, an unerring indication of the depth of both characters. In 1878 Reverend Fergus Lafayette Kenyon accepted the call of the church in Iowa City, and another change in the family residence came about. Unlike the previous occasion, William Squire Kenyon was cognizant of all that accompanied the change. With what eager eyes the young lad must have gazed upon the natural amphitheatre that enfolded Iowa City. On the third tier stood the bird's-eye marble main building of the State University, which had been intended for the state Capitol. Who may know, that then and there was engendered the hope that he might some day be a member of the student body which entered and passed out of that gem of classical architecture. Something certainly spurred his far from laggard student mind.

Selects a Profession

William Squire Kenyon pursued his studies at home and at school with a concentrated energy that would brook of no denial of ambitions through inadequate preparation. He had reached a final decision that was to mark his whole future career. The ministry did not appeal, he wished to study law. His father, wise man that he was, did not deny the boy his right to choose what his life might be; better the law with whole-hearted interest than the ministry with anything less than that. The financial status of the Kenyon family, however, made this a difficult problem. There would not be enough money to finance the necessary college attendance. Nevertheless, the young man's determination would not permit that fact to bar him from attaining his desire. He would work his way through college, and so he did. Selecting the nearby Congregational institution at Grinnell, he applied for admission, and was accepted as a special student in the Scientific Course.

Iowa College, later Grinnell College, was non-sectarian, but "emphatically a Christian College," under the supervision of the Congregational Church. The institution was situated in the town of Grinnell, Poweshiek County, at the junction of the Chicago, Rock Island and Pacific, and the Central Iowa railways. There were four buildings on the campus: Alumni Hall, Blair Hall, Chicago Hall, and Goodnow Hall. Coeducational in policy, it was under the guidance, at that time, of the Reverend George A. Gates. Entrance requirements were high and the academic standing equally so. Such was William Squire Kenyon's intellectual equipment and preliminary training, however, that he passed with ease the requisites in English, Physiology, Algebra, Geometry, outline of General History, History of the United States, Greek and Roman History, Civil Government, Latin Grammar, Cæsar's Commentaries, Virgil's Aeneid, Cicero's Orations, and probably Greek. The successful meeting of these requirements demonstrated the ability of the young student, the quality of his father's training and the calibre of Iowa's school system, for few persons today could enter college under similar conditions and at such an early age. Young Mr. Kenyon was enrolled as a "Special," indicating a student who did not intend to take a fully proscribed course, and as such was allowed large privileges in the selection of studies. The preliminaries finished and his acceptance assured, the next consideration was that of finance.

Tuition and general expenses, he learned, would average approximately three hundred dollars per college year. He could count on no aid from home, that was certain, and the vow to work his way through school must necessarily be put to the test at once. Although he possessed a sufficient sum to meet all immediate obligations, which he had earned by a summer of hard work, young Mr. Kenyon was not of a nature that would

wait for emergencies to arise before striving to circumvent them. False pride was not his failing, and determination and willingness brought prompt returns in the way of lucrative employment. Odd jobs of all sorts supplied the major part of his needs during the school year, while his slender resources were further augmented by fees for tutoring. Later in Mr. Kenyon's college career his tutoring advanced to the full status of group teaching with correspondingly greater returns. He was enabled to do this by the flexibility of the curriculum arranged for special students. During the days of vacation, and even Saturdays through the school year, he found employment in a fence factory. The effect of this labor upon his general character, aside from the self-reliance it engendered, was to give him a full measure of the common touch that made him in later life the friend and defender of the ordinary man. All was not work and study, however, for the advantages of outdoor exercise of any sort never escaped William Squire Kenyon.

Long walks, whenever time was available—and if it were not an early rising would allow an hour or so—were the largest part of that outdoor activity. One day a leisure hour took him down to the football field. The year being 1886, the present game was unknown, for association football was played at that time. While there he struck up an acquaintance with Charles A. Rawson, a fellow special student. In the course of the ensuing conversation they discovered that neither had a roommate. Then and there they shook hands on an agreement to room together. Known to each other as "Bill" and "Charley" they moved their trunks into one room and continued as roommates for the following two years. Under such favorable conditions and aided by similar ideals the acquaintance rapidly grew into a lifelong friendship, a friendship that was to mean much to both in later years.

Particularly appealing to young Mr. Kenyon among the subjects of his final year at Iowa College were Mental Science, Logic and International Law. It may be taken for granted that they were in some measure pursued, and the ability of his reasoning and his understanding of the urges and desires of people in general, indicate his special interest in them. There came, in 1887, that breaking of old acquaintanceships and that leave-taking of scenes grown familiar through days of academic struggle and success, known as commencement. On that day, though not yet of age, William Squire Kenyon reaped the reward of his endeavors when, under the conditions relative to special students, he received a certificate indicative of great distinction in all his studies. One more rung of the ladder remained before his goal might be achieved—preparation at the Law School of Iowa State University for admission to the bar.

The paternal residence was no longer in Iowa City. His father had accepted the position of president of Tobin College, in Fort Dodge, Iowa, in 1886. Arriving at Iowa City from Fort Dodge in the fall of 1887, William Squire Kenyon found that the

glamour of the University had remained despite the years in which his intellectual and physical persons had matured. The buildings, surrounding the central one that had captured his fancy as a boy, had increased and the status of the institution, throughout the state and nation, correspondingly so. Awed but undaunted, he enrolled as a law student with intense satisfaction over a personal promise fulfilled. At last, he was one of the group that had intrigued him some years before. Plunging whole-heartedly into the work of adjustment for his more special studies, Latin, Logic, Ethics, English Literature, Composition and Public Speaking were speedily mastered. Then followed months of intense concentration upon the rules of Brief Preparation, Pleading, Special Statutes, Constitutional Law, and similar subjects. John F. Duncombe was a member of the board of directors of the University, and a lecturer on law subjects as well. Young Mr. Kenyon attended some of Mr. Duncombe's lectures without a thought of reaching a closer degree of relationship than the intellectual one of student and lecturer. The social phase of college existence interested him not at all, and it was said that he joined a certain club with the express understanding that he would not be compelled to attend any of its social functions. Three years of work, full of such interest that it appeared much as pleasure, brought to a close his law school training. Emblematic of his qualifications and indicative of the highest credit that the State University of Iowa might confer, under the terms of his course, William Squire Kenyon was presented with the degree of *Legum Baccalaureus* in the early summer of 1890.

A product of Iowa's environment and Iowa's schools, full of high ideals tempered with the practical experience that would make them possible of attainment, able, efficient, characterized by an independence of nature and a love of his fellow creatures, and influenced by an understanding and intellectual father and mother, William Squire Kenyon stood on the threshold of manhood, with his life before him to make of it what he would. Not that his acquisition of knowledge was ended, no truly intelligent person ever ceases learning, but he was prepared to meet life at large and profit thereby.

Chapter Two

Early Career: 1891-1911

"I, William S. Kenyon, do solemnly swear that I will support the constitution of the United States and the constitution of the state of Iowa, and that I will faithfully discharge the duties of an attorney and counselor of this state, to the best of my ability."

This oath was taken by William Squire Kenyon upon his admission to the bar early in the year 1891. It was the first of a series which he never violated in the least particular. His dream had been realized and he was qualified to practice law. The year between his graduation from school and his entrance upon the profession had been spent in preparation for the necessary examinations at Fort Dodge. After the usual period of clerkship, he opened his own office in the same city, and settled down to handle all litigation that his fellow-townsmen might see fit to present to him. Despite his youthfulness, the sincerity and dignity of his mien brought him clients enough to meet his humble needs. The monetary side of William S. Kenyon's profession was never the most important of his considerations. Given the wherewithal for a reasonable existence, nothing would have pleased him better than to practice law for the satisfaction he derived from furthering the cause of justice. He learned the thoughts and impulses of his fellow-citizens throughout the two years of private actions that followed. While not interested in the social phase of town life, he realized that certain concessions to individual feeling must be made to allow for a well rounded estimate of the people whom he desired to serve. Moreover, there was growing within him a strong attachment for a pretty young lady, the daughter of John F. Duncombe, a man whose fame was statewide.

The attachement increased rapidly into positive affection. His joy may be conjectured when he learned from the lips of the adored one that the feeling was reciprocated. Theirs was a genuine case of love at first sight. The engagement of Mary J. Duncombe and William Squire Kenyon was announced three months after their first meeting, and many congratulations were bestowed upon the youthful couple. The young attorney lived on twenty-five cents a day in order to save money with which to purchase a diamond engagement ring for the object of his adoration. Plans for the wedding went speedily forward. In this period of great happines, Mr. Kenyon did not forget his sworn friend, "Charley." He extended to Charles A. Rawson the signal honor of acting the part of

best-man at the ceremony. Mr. Rawson was extremely pleased and accepted with alacrity. Meanwhile, a change was coming about in William S. Kenyon's public status. Perhaps the knowledge of approaching obligations was the force that impelled him to post his name for the office. Perhaps the continued insistence of his friends had much to do with it. Whatever the reason, he entered his name upon the list for the position of County Attorney in Webster County.

Takes First Public Office

The office was an elective one, and one for which any undue campaigning would be rather a handicap to the successful candidate. His character was such that anything in the nature of forcing attention was repugnant; consequently, the friends who aided and abetted his decision were required to campaign for him. Under these conditions the "office came to the man," and aided by the natural modesty of his attitude and the proven worth of his aptitude Mr. Kenyon was elected to the position of County Attorney. The oath, administered in 1893, and the second oath of his career, was as follows:

> "I, William S. Kenyon, do solemnly swear that I will support the constitution of the United States and the constitution of the state of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all the duties of the office of County Attorney in Webster County, as now or hereafter required by law."

His future assured, the date was set and the plans completed for the most important event of his life. On May 11, 1893, he was united in marriage to the girl of his choice, and Mary J. Duncombe became Mrs. William Squire Kenyon. Shortly after the ceremony the youthful husband demonstrated his extreme independence when he refused a proffer of his father-in-law, at that time one of the best known lawyers in Iowa, with the words, "I am marrying your daughter, not a partnership in your office." While disappointed, Mr. Duncombe could not but admire the young man's attitude. The happiness of the marriage was foreordained by the sterling worth of the young people's characters. Their married life could well be copied in this day of laxity as an example of loving constancy. The sincerity of their affection was never doubted and faith, companionship and love increased through the long years that followed. Mrs. Kenyon was a gentle spur to further and more high flung ambitions. His helpmate in all the deeper meaning of the word, she influenced the whole course of his future life.

MARY J. DUNCOMBE

(MRS. WILLIAM S. KENYON)

The position that William S. Kenyon held in the legal system of Iowa was his first step into public activity. He felt keenly his obligation to the citizens of the county, and did all within his power to acquit himself well. The nature of his office brought him into the courts of Webster County as a representative of the people in any action involving the violation of the local or state statutes. The majority of those cases came under the heading of criminal prosecutions. That being the situation, much that was sordid and ugly in life was brought to his close inspection. However, the depth of his understanding was too great for those experiences to change his kindly regard for the average man. It was wonderful training, for his power of appeal to a jury was constantly strengthened through practice, as was the agility of his mind in attempting to dam up the legal loopholes his opponents used. An action on his part during this period was characteristic of his entire public life. A representative of an approaching circus came to Mr. Kenyon's office in Fort Dodge and very suavely explained to him that the circus was operating a shell game. Said the agent: "You need never know that this game is being operated. You will have no occasion to see it or be near it. All we ask is that you remain ignorant of it and do nothing about it." Then smiling most ingratiatingly, the agent seized Mr. Kenyon's hand. In the palm were concealed three tightly folded one-hundred dollar bills. Having shaken hands, Mr. Kenyon found the money in his right hand. He indignantly hurled it at the agent and drove him from the office. Stopping only long enough to pick up the money, the would-be briber hurried away, with the sound of Kenyon's voice ringing in his ears: "If you do anything illegal in this city, I shall close the circus." He discharged himself so ably that he was reëlected at the end of his two-year period of service. Two additional years of the same type of work increased Mr. Kenyon's capability, and found him on the verge of seeking new fields to conquer. He refused to run for office a third time, and returned to the practice of law.

Elevated to the Bench

It was natural enough that William S. Kenyon should have gained in popular recognition throughout his four years as County Attorney. He was busy constantly during the ensuing three years of general practice. When he was approached with the possibility of election to the state bench, he promptly accepted. Not every man could aspire to the bench at the age of thirty-one with any great probability of election. His qualifications, however, were more than satisfactory despite his age. He would countenance no great display of oratory on his behalf, and rested on the known worth of his previous public effort. It was deemed sufficient in the eyes of the people, and Mr. Kenyon was elected

Judge of the Eleventh Judicial District of Iowa. The third oath of his career was taken in 1900. He had attained at the age of thirty-one that which many who aspired could not hope to reach in little less than twice that number of years. With these words:

> "I, WILLIAM S. KENYON, do solemnly swear that I will support the constitution of the United States and the constitution of the state of Iowa, and, without fear, to the best of my knowledge and ability, administer justice according to the law, equally to the rich and the poor,"

he ascended the bench in his beloved state on January 1, 1900. Judge Kenyon remained in that office but a short while. Typical of the routine cases which came before him, during that brief period, was an action for an accounting between a hardware company and one of its collectors. The hardware company was the plaintiff. With the consent of the litigants the case was referred by Judge Kenyon to a referee. Such an action was common in cases where a jury was not required by law. The finding of the referee was not mutually satisfactory and no arbitration could be made, so the evidence collected, coupled with the statements of the plaintiff and the defendant, were presented to Judge Kenyon for a decision. He found that the allegations of the defendant were in error in view of the evidence he had offered to sustain them. The defendant had not, as claimed, turned back the uncollected judgments to the agent of the company. Judge Kenyon's decision, therefore, was in favor of the plaintiff. The collector exercised his right of appeal to a higher court. In all such actions for an accounting the evidence must be certified by the trial court, upon the request of the interested attorney, before the case may be tried *de novo* in the higher court. That was, and is, the law. The defense attorney neglected to do that and Judge Kenyon did not suggest or offer the certification. His decision was based on sound logic and the desire to prevent great public expense over a matter obviously settled by the conduct of the defendant. The supreme court of the state could only review the conduct and the record of the case, and they affirmed the decision for the plaintiff. While not a case that was outstanding in the career of Judge Kenyon, it was only too typical. During that time on the state bench, Kenyon learned that the sphere of action possible to a judge was strictly limited by the word of the law on the cause in question, except in cases of equity where the spirit rather than the word of the law was interpreted. Causes in equity were too few in his experience to alleviate the distress caused by a feeling of restraint. That feeling, however, would not have brought about his resignation. He had sworn to uphold the office for the people of the state, and he would do that regardless of personal sentiment. His truly judicial mind could not give way to individual consideration, except in the matter of a livable existence. He was

financially unable to continue in the office. His living expenses had increased materially. There were his own household, aid to his father and mother, and the education of his sister, Charlotte, to consider. The demands far exceeded his income, and for that reason Judge Kenyon tendered his resignation in 1902. It was accepted with regret, but the exigencies of his needs were considered ample cause for his action. He was always termed Judge in the public press of Iowa from that time forward.

Becomes Railroad Attorney

Free once more to turn his active mind to the practice of the law, William Squire Kenyon accepted a partnership with his father-in-law, John F. Duncombe. He could now do that with no sacrifice to his pride. He was a lawyer of acknowledged ability, and brought to the firm as much as he received. For some years Mr. Duncombe had been counsel for the Illinois Central Railroad, and his son-in-law rapidly became cognizant of the intricacies of the statutes applying to common carriers. This training helped Judge Kenyon tremendously when in due course of time he "inherited" the counselship of the railroad. That came shortly after his admission to the partnership. John F. Duncombe died on August 2, 1902, in the fullness of time, and to the great loss of the legal profession in the state of Iowa. Judge Kenyon and his charming wife bore their immeasureable sorrow with the alleviating knowledge that "their father" had lived an exemplary and honored life. A large part of the work of the firm fell to the lot of William S. Kenyon, and he welcomed it. His ability at pleading was strong and he handled many of the cases in the court room; the briefs being prepared with the aid of his partners. The officials of the Illinois Central Railroad knew of his aptitude and appointed him counsel for their lines within the state of Iowa. The broader scope of that work made him a keen student of railroad law and of the methods of the Interstate Commerce Commission. Judge Kenyon's ability to handle causes evolving from actions brought by the Commission was responsible for his selection as general attorney for the Illinois Central Railroad in 1906. He established a temporary residence in Chicago at this time.

This still broader sphere of action brought Judge Kenyon to close grips with national problems. His legal mind had widened and deepened through the process of considering federal law actions, as well as state, district and county. His character likewise had become more firmly fixed. His father, the preceptor of his early years had passed to his greater reward on March 2, 1902, at Albion, Illinois; the retired pastor of the local church where he had preached from 1891 until 1893. His mother was a member of the Kenyon household in Fort Dodge. Both Judge and Mrs. Kenyon treated her with fond-

ness and great consideration. Particularly touching was the kindest regard with which the younger Mrs. Kenyon treated the mother of her beloved.

Great changes in the general public attitude were looming in those not so distant years. The changes had not reached a stage of materialization, they were only vaguely suggested through a feeling of unrest. At first Judge Kenyon did not sense them, being too busy with the knotty problems of railroad litigation. Restrictions were being placed upon the actions of a public carrier, actions hitherto considered rightful. The problems resulting from those restrictions were peculiarly beneficial to William Squire Kenyon, as later developments proved. The following action at law is considered because it had such an effect on his later life and served to bring him to a larger view of the law. Along the route of the Illinois Central Railroad were a number of bituminous coal mines. Such is the nature of bituminous coal that it must be disposed of as it is mined. The quantity removed in coal cars, therefore, effectively regulates the quantity produced. The Illinois Central Railroad had a system of daily allotment. The coal cars were divided more or less evenly between all bituminous mines along the route. The system did not take into consideration the company fuel cars, fuel cars of other railroads and private cars. The cars thus allotted were for scheduled deliveries, usually outside the state. There was not much difficulty under the process until there was a car shortage. Then, the mine that held the contract to supply coal for the railroad company had the better of the situation. Under the circumstances the Interstate Commerce Commission formulated a rule that in the case of car shortage all fuel cars were to be taken into consideration in the daily distribution. A violation would bring into force the requirement, "for a future period of two years to count such cars against the share of the mine receiving them."

The Illinois Central Railroad had issued a set of rules governing car allotment, which stated that the specified cars were not to be taken into account. Thereafter, in compliance with the regulation of the Commission another set of rules was issued calling those cars into account. The Majestic Coal and Coke Company had an injunction placed against the final set of rules as a violation of the legal right to contract freely. The railroad reëstablished the original rules, which were much to their advantage. The Illinois Collieries Company, another mine along the route of the Illinois Central, thereupon filed a report with the Interstate Commerce Commission. The Commission ordered the railroad to desist from its practice and to count the cars against the future share of the mine receiving them. The Majestic Coal and Coke Company and the Illinois Central Railroad brought an action in the United States Circuit Court for the Northern District of Illinois and succeeded, under the able handling of Judge Kenyon, in having the order restrained. The Interstate Commerce Commission filed an appeal with the United

States Supreme Court. The action was "to review a decree restraining the enforcement of an order of" the Commission. The appellant in this final suit was the Commission, represented by Assistant to the Attorney General Wade Ellis and Luther M. Walter. The appellee was the Illinois Central Railroad, represented among others by William Squire Kenyon who argued the cause.

The argument of the Interstate Commerce Commission attorneys was substantially as follows: the allotment of company fuel cars in addition to the full distributive share resulted in undue and unreasonable preference in violation of an act to regulate interstate commerce. The answer was that it was not a regulation of interstate commerce, the section of the act did not empower the order, and the order was taking private property and prohibiting freedom of contract in violation of the Fifth Amendment to the United States Constitution. There were additional briefs filed by the co-parties, the Majestic Coal and Coke Company and the Illinois Collieries Company, but they were similar in content to the above. The immediate cause of action was the restraining order of the circuit court. Supreme Court Justice White delivered the opinion, the first point of which was to deny the right of a court to usurp an administrative function under the guise of exerting judicial power. In answer to Mr. Kenyon's arguments, the court ruled that commerce included the instrumentalities whereby commerce was carried on, and extended to coal cars. The power to regulate distribution was delegated to the Commission by the Act of February 4, 1887, and the regulation addressed itself not to the right to purchase, but the duty to make equal distribution. The restraining order was denied and the Illinois Central Railroad was ordered to obey the regulation of the Interstate Commerce Commission.

The loss of that case was not a bitter blow to William Squire Kenyon. His mind had awakened to a broader concept of the situation through the long months of litigation. His defence had been without a structural weakness as his victory in the lower court showed. Nevertheless, he realized the inherent truth of the theory that the common good was more to be sought than the private end. He reëstimated the worth of his argument concerning the Fifth Amendment to the Federal Constitution. He had interpreted that amendment to the letter, for it was the only way he could have applied it. The spirit of the law was the interpretation used by the Supreme Court. The feeling of general unrest, mentioned previously, had crystalized in the public mind and in Judge Kenyon's mind. Powerful combines were working to the detriment of the farmer and the small business man. Theoretically, railroad companies were involved in the combinations. Judge Kenyon was possessed of an integrity that never permitted his rapidly growing private opinion to influence his actions at law for the railroad. He became interested in the Progressive Republican movement, and was an ardent supporter of United States Senator Jonathan Prentiss Dolliver, exponent of the movement in Iowa. Senator Dolliver

knew of the sentiments and beliefs that activated Judge Kenyon, and it was he who brought about the Judge's first step into national prominence.

Acquires Fame As Trust Busting Assistant Attorney General

The position of Assistant to the Attorney General had become popularly known as that of "trust buster." The incumbent had been Wade Ellis, of Ohio, Judge Kenyon's opponent in the coal car case. Mr. Ellis had resigned and Attorney General George Woodward Wickersham desired a lawyer as excellent as he could find to fill the office. Senator Dolliver suggested the name of William Squire Kenyon. Mr. Wickersham knew Mr. Kenyon as an able, efficient lawyer who had kept his department on its "legal toes" whenever he was opposed to it, and was delighted at the prospect "without regard to whether he was an insurgent or not." Secretary of War Jacob M. Dickinson, former general counsel for the Illinois Central Railroad endorsed the candidate with the words: "Kenyon has one of the finest legal minds I have ever known." The recommendation and endorsement were sufficient for Mr. Wickersham. He presented the name to President William Howard Taft, with his unqualified approval. On March 14, 1910, President Taft sent the nomination of Judge William Squire Kenyon, of Fort Dodge, to the Senate, where it was approved promptly. As Assistant to the Attorney General, Judge Kenyon would have to accept a salary of five thousand dollars less per year than his previous position had brought him. He refused a large increase of salary from President Frank Black Harriman of the Illinois Central Railroad, who wished to keep him as General Attorney for that road. The feeling that he was "on the right side of the fence" and had been called to serve the Government more than compensated for the monetary loss. It was just a verification of his attitude toward the profession he had chosen as his life work.

> "I, WILLIAM S. KENYON, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of Assistant to the Attorney General on which I am about to enter; so help me God."

This oath, the fourth of his career, prefaced William Squire Kenyon's entrance into active duty. The office was third ranking in that section of the Department of Justice, and he had special charge of all suits and other matters arising under the Federal anti-trust and interstate commerce laws. Moreover, he was required to perform such additional

duties as the Attorney General might ask of him. The year that followed was characterized by great activity. The number of suits brought by Assistant to the Attorney General Kenyon were only outweighed by their importance. The people of the nation were demanding trust investigation and he was doing all, humanly possible, to meet that demand. To record, individually, the many actions in which he took a part would require much more space than the scope of this work makes available. A few will be mentioned in passing, but the most important, in its legal sense and in its effect on his future activities, was the case of the Atlantic East Coast Line *versus* the Riverside Mills Company. This action at law, in which Assistant to the Attorney General Kenyon appeared as *amicus curiæ,* will be dealt with more explicitly later. The millionaire beef packers of the mid-west were at this time the subjects of William Squire Kenyon's intense legal interest. They were of intense interest to the people of the United States, as well. The Assistant to the Attorney General was anxious to bring suit against them on criminal charges, but a civil suit was blocking that course of procedure. After a trip to Chicago he succeeded in having the civil suit dropped and the way opened. The packers who hoped for immunity through the amount of testimony given in the civil action, sued for its reinstatement. That, among Judge Kenyon's activities in regard to the sixteen hour labor law and railroad rebate cases, ran throughout the year 1910 and well into the first quarter of the year 1911. Actions against, and investigations into, the Southern Wholesale Grocers' Association, the Chicago butter and egg trust and the harvester trust added to the quantity of labor. His success brought him into the public eye, and the determination and excellence of his fight brought him the acclaim of the legal profession. Particularly his fame was growing in the state of Iowa. The public resentment against the meat packers reached such a pitch that meat strikes were common throughout the northwest. This served to make Judge Kenyon all the keener in his scrutiny of the packers' business methods. The scrutiny made him all the more determined to "put some of them behind the bars." Meanwhile, Senator Dolliver had died. His unexpired term was a topic of great concern to the people of the state of Iowa, and numerous applicants for the office came forward. A cartoon by J. N. Darling, then on the staff of the Des Moines "Register and Leader," neatly satirized the situation, with the caption "47 Varieties of 'Love Me and the World is Mine.'"

Deeply regretting the death of a man he admired so much, William Squire Kenyon thought only of the loss to the state and the nation. The urge to be the successor of the senator never entered his mind. The work he was engaged upon held his entire interest, and he could think of nothing better than to be permitted to continue his "trust busting." His friends and admirers, throughout the state, thought differently; they saw in him their champion. The sentiment in favor of Judge Kenyon grew. Charles A. Rawson had

become prominent in the younger division of the Republican party, and he added his weight to the arguments favoring such a candidacy. William Squire Kenyon was obdurate. He had his "work to do" and it was only with greatest difficulty that his supporters were able to stop him from publicly denying the rumor that he aspired to fill the remaining term of the late Senator Dolliver. As usual, there were people of the state who pointed out his former connection with the Illinois Central Railroad as a strong reason for his non-consideration. It was at this time that Mr. Kenyon was engaged on the most important case of his career as Assistant to the Attorney General. The Carmack Amendment to the Hepburn Rate Act was about to undergo its ultimate test.

The Carmack Amendment was considered to be doubtful, constitutionally. In substance it said: ". . . .any common carrier, railroad or transportation company, receiving property for transportation from a point in one state to a point in another state shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage or injury, to such property, caused by it or by any common carrier, railroad, or transportation company, to which such property may be delivered . . . . with the right of recovery . . . ." In other words, the initial carrier was liable for the shipment over the entire route. The amendment was the subject of legal controversy, and a test case before the United States Supreme Court was deemed immediately necessary. The action against the Atlantic Coast Line Railroad brought by the Riverside Mills Company was to be the test case in question. The railroad had accepted a shipment from the mills and safely delivered the goods to a connecting carrier on whose line the shipment was lost. Under the Carmack Amendment, the Riverside Mills sued to recover the cost from the initial carrier, the Atlantic Coast Line. The railroad pointed out in its defense the statement on the back of the bill of lading it had issued. It said in part, "no carrier shall be liable for loss or damage not occurring on its portion of the line." That was only a part of the defense argument. The decision of the court in Georgia was in favor of the Riverside Mills, and included a judgment for one hundred dollars for attorney's fees. The Atlantic Coast Line Railroad immediately appealed the decision to the Supreme Court on a writ of error. The test of the Carmack Amendment was about to take place. In passing, it may be noted that, between the trial of the case and the rendering of the decision, Joseph R. Lamar, attorney for the railroad, had been elevated to the Supreme Court Bench. As a participant in the case he had no part in the decision. The Atlantic Coast Line Railroad sued to set aside the judgment in favor of the Riverside Mills. If that were accomplished the Carmack Amendment would be deemed invalid.

Joseph R. Lamar, as stated above, represented the railroad company. His arguments condensed were as follows: a carrier could contract for exemption under the com-

mon law, the statute was a violation of the Fifth Amendment in that it hampered freedom of contract and made one carrier responsible for the debts of another, an unconstitutional statute was not a condition precedent to doing interstate business, the decision as to attorney's fees was the taking of property without due process of law, and the Carmack Amendment was void because it was repugnant to the Constitution. Alexander Ackerman argued the cause for the defendant in error, and said, that the Constitution gave Congress full power to regulate interstate commerce, that the remedy sought was to stop the unnecessary delay and expense to the shipper in collecting claims, that the liberty of contract was subject to any reasonable restraint for the public good, that the allowance for fees was proper and that it was for congress to decide what public policy required with respect to a common carrier, engaged in interstate commerce. The arguments that were to bear the greatest weight in the decision of the court came at this juncture in the conduct of the case. Assistant to the Attorney General William Squire Kenyon filed a brief for the government as *amicus curiæ,* which had been prepared with the assistance of Attorney General George W. Wickersham. It may have amused Judge Kenyon to hear the Fifth Amendment used so freely with reference to the fredom of contract. He had acted similarly as a railroad attorney. As the representative of the Government his brief concerned itself solely with the constitutionality of the Carmack Amendment to the Hepburn Rate Act. Briefly his statements were as follows: that the enactment of the statute was intended to relieve the shipper from the troublesome tracing of a claim "until not only his patience but his money was entirely exhausted," that there was no such thing as absolute liberty of contract, that Congress had plenary power in respect to interstate commerce, that the statute did not take property without due process of law, and that the right of any corporation to carry on business in interstate commerce rested upon the will of Congress. The truth of William Squire Kenyon's statements was incontrovertable. Through years of railroad litigation and the months of intense activity as prosecutor under the Hepburn Rate Act he had come to recognize the power that the will of the people, exemplified by the will of Congress, had in relation to constitutional decisions. He realized also that what the railroads considered a question of contract was in reality a question of agency. The decision rendered on January 3, 1911, by Supreme Court Justice Horace Harmon Lurton sustained his belief and settled forever the constitutionality of the Carmack Amendment of 1906.

The decision in a few words was: that no question with regard to the power of Congress to regulate interstate commerce could arise if the act questioned was not obnoxious to the other provisions of the United States Constitution and the liability of an initial carrier was that of a principal for the negligence of its own agent, or agents. The judgment in regard to attorney's fees was denied for it was "in no way traceable to any viola-

tion of any provision of the statute." The decision of the lower court was affirmed with the correction just stated. The immediate effect of Judge Kenyon's success in this instance was to remove any doubt that remained in the minds of the citizens of Iowa regarding his contamination by "the interests" through his legal connection with a large railroad corporation. If any further reassurance was needed, it came when he instituted the rebate cases against the Lake Shore Railroad and the Pennsylvania Railroad, each on fifty counts. The insistence upon his political candidacy grew to tremendous proportions. While he had expressed no desire for the position, letters and editorials in the daily press of the state kept his name in constant prominence.

Elected to the United States Senate

In a political sense Judge Kenyon was unknown. His previous public offices had been based on his legal knowledge, not his adherence to any political party. The conservatism of his nature left the general populace in a quandry as to his stand on topics of national interest. His "trust busting," alone, did not make him a positive "insurgent." One of his speeches at the Grant Club in Des Moines during November, 1910, settled the issue as far as the "stand pat" Republicans were concerned.

"I have been impressed with the cunning schemes that have been devised by lawyers to circumvent the operation of the Sherman Act. The lawyer who advises his client how to evade the law is not a good citizen, even if he goes to prayer meeting every week. The lawyer who plans the formation of great combinations which are intended to oppress his fellowmen and assist in thwarting the law of his country, is an undesirable citizen. A lawyer owes a duty to his country as well as his client. It is time to cease being polite with crime in this country. If a law is on the statute books it should either be enforced or repealed. . . . The best way to find out whether a law is not a good one is to enforce it."

Though Judge Kenyon had not announced his candidacy, the regular Republicans increased the number of their candidates in the field after that speech. It was reported a few days later that "the only man I have heard mentioned with any regularity in northern Iowa as successor to the late Senator Dolliver is W. S. Kenyon." This statement was made by Maurice O'Connor of Fort Dodge, a member of the law firm of Kenyon, Kelleher and O'Connor. While that statement may have been influenced by personal contact with the man in question, no one could deny the personal disinterestedness of a large daily journal, the Des Moines "Register and Leader." From the beginning that paper had stressed the popular demand for Judge Kenyon. On December 9, 1910, the

"Register and Leader" reprinted an article from the "Waterloo Courier." It was the first definite announcement of William Squire Kenyon's entry into the field.

"It is characteristic of men of sufficient size for great office that they were the least aggressive in seeking such an honor. Judge Kenyon, of Fort Dodge, Assistant Attorney General of the United States in charge of government prosecutions of the notorious beef trust is one of the very biggest of living Iowans and stands, we believe, first in line of eligibility for the Dolliver seat. He has not sought the office, but with great work now on his hands has rather demurred in considering himself a candidate. But the office has been seeking the man and Kenyon has at last consented to have his name presented before the legislature."

William Squire Kenyon publicly and personally announced his candidacy just previous to the convening of the State Legislature. His old college chum and roommate, Charles A. Rawson, who had been working unceasingly for him from the very start, was to be his campaign manager. Kenyon's statement, delivered January 6, 1911, was brief and to the point.

"I am a candidate for the United States senatorship to succeed the late Senator Dolliver, and have come to Des Moines to meet members of the legislature to ask their support. My candidacy is based upon the belief and the hope that I will be able to serve well the people of Iowa in the senate and with the intention to serve them faithfully and diligently if I am honored by a senatorial commission from the legislature and the people. This candidacy is earnestly and thoughtfully undertaken and my friends will urge it until the Dolliver succession has been disposed of, finally."

He was presented as a candidate under the wing of the Progressive Republicans. Charles A. Rawson was a prominent member of that group. United States Senator Albert Baird Cummins, then senior senator from Iowa, was believed to be back of the Kenyon campaign. Senator Cummins put the supreme issue before the people of the state with the words: "The progressive movement in the Republican party represents real and vital things. It has already accomplished much and if it fulfills its mission there is yet much to be accomplished. I believe profoundly that the welfare of the party depends upon complete domination of the principles and proposals advanced and maintained by the progressive Republicans." The approaching struggle was not only to be among the various candidates, but also to be between the younger and the older divisions of the Republican party. The political control of the state was the issue. The legislature was composed of many members of the Progressive group, and many more were wavering. At that time United States Senators were elected by the state legislatures. One of the principal measures of the Progressive movement was to have this changed to primary nomination and direct election. During the excitement that followed the meeting of the

legislative body, Judge Kenyon spared little time for his campaign. Throughout the long days of the deadlock that ensued, he was traveling from Washington, to Chicago, to Des Moines and Fort Dodge, in a never ending rush of activity as Assistant to the Attorney General. William S. Kenyon's sworn duty was that of his office and he would not slight it even if the seat in the senate had been his most cherished desire. He had not sought the office and it being contingent upon the will of the people, as represented by the legislature, he saw no reason to force that will.

Previous to the convening of the legislature and shortly after the death of Senator Dolliver, Lafayette Young had been appointed senator by the governor of Iowa, until the lawful successor might be chosen. Senator Young was deemed the most competent of Judge Kenyon's opponents. After the preliminary business of the session and the passage of an act making the primary nomination of senators legal, the members settled down to their principal work. The struggle was to be long and bitter. The first ballots showed a large balance in favor of the temporary incumbent, Senator Young, with Judge Kenyon far down on the list. No one would yield and the voting went on day after day. On March 6, 1911, when the results of the thirty-third ballot were announced Senator Young was no longer on the list, and Judge Kenyon was in third position. Not a candidate was within thirty votes of election. Judge Horace Emerson Deemer, Claude R. Porter and Judge Kenyon shifted places throughout the ensuing ballots. Judge Kenyon was approached at various times with the suggestion that a word from him concerning patronage might serve to break the deadlock. His prompt and public answer was characteristic of his strict integrity.

"If I am elected senator (and it is not a matter of great public importance that I shall be the choice) there will be no strings tied to me. Before I would make my election conditional upon the barter and sale of petty offices, I would retire from the race without a moment's hesitation. I will absolutely make no promises whatsoever regarding patronage or future political favors. If my friends are not satisfied with this position, I shall be sorry, but it is the only way in which I can view the public service."

The deadlock continued unabated to the growing disgust of the general populace. It was rumored that Senator Young was attempting to hold up the election until adjournment when he would have a clear field in the 1912 primaries. The forty-second ballot found Judge Kenyon within thirteen votes of election. The Judge was in Chicago trying to circumvent the immunity action of the beef packers. Public comment became so bitter that a party caucus was called in the legislature, and Judge Kenyon was endorsed as the candidate of the Republican party. Two weeks later on the last day of the session, April 12, 1911, and on the seventy-sixth ballot, William Squire Kenyon was chosen United States Senator from Iowa. It was a complete victory for Charles A. Rawson and the Progressive Republicans, and they remained in control of Iowa for many years. The

final majority of eighty-five votes was the result of a stampede in which party differences were forgotten. Another step forward for this "greatest of Iowans." His acceptance speech, in which he outlined his policies, was the last event of the long state legislative assembly.

"Gentlemen of the Convention and Joint Assembly:

"I think the people of the state cannot complain over your lack of consideration in this matter. I think they will not be angry by reason of your hasty action.

"I want to extend to the members of the legislature my thanks and appreciation for the great honor conveyed and the confidence reposed in me in this election. While I am a believer in a constitutional amendment for the election of senators by the people, I am not so strong a believer in that opinion or so impolite as to decline this election.

"The character of this contest and the length thereof never has inspired in my mind any thought that a speech of acceptance on my part would ever become part of the exercises; consequently I have nothing but extemporaneous remarks to make on this occasion. But, my mind wanders amidst this excitement to a quiet spot near home where sleeps on the hillside in the last sleep that knows no awakening that great Iowa leader who gave his life in fighting a battle for the people, your beloved friend, and my beloved friend, Jonathan Prentiss Dolliver.

"I have always turned for inspiration along political lines to the life and teachings and works of that greatest of all American orators, Abraham Lincoln. In some words of his that come to my mind at this time in relation to the perpetuity of government, and the object of government, is political philosophy, which is my philosophy. When he said the purpose of government was to elevate the condition of man, to lift artificial burdens from shoulders, to clear the pathway of laudable pursuit for all and to afford to all an equal start and a fair chance in the race of life. I believe in a square deal to all as does that fearless American citizen, Theodore Roosevelt, so that in the senate of the United States I propose to stand for laws for elevating the condition of man, for lifting artificial burdens from their shoulders in so far as I may be able to do so. Hence, I shall favor in a general way income tax laws, workingmen's compensation acts, in which I believe we are behind the civilized nations of the world, corrupt practice and other measures along the lines of human rights, as well as property rights, because human rights are first. We believe as a nation in the conservation of our national resources; we believe likewise in the conservation of national ideals, and the people of this country view with some alarm a scheme of fraud and corruption by which a man may be elected to the senate of the United States. And, I propose to unite with any effort to preserve the whole ideals of the United States and to go to the bottom in the investigation of the election of a senator in a neighboring state of ours.

"We may have lost some in population in Iowa, but we have never lost any of our ideals, and I thank God we never needed a grand jury or a committee of congress to investigate the election of a senator in Iowa.

"I do not want to take any more of your time. I have enjoyed this contest in a way; it has been one of good faith, and I have enjoyed being in friendly contest with my good friend who sits on this platform, for Iowa has never produced a better man than the friend I have known all these years, and our friendship is not affected by this contest—my friend, Justice Deemer. And I want to make just this pledge to you—and to the people of Iowa, and its the only pledge of any kind, nature or description that I have made in this campaign, and that is, to give to the people of Iowa the best service of which I am able, and all the energy that I may possess. I want your help, your advice—I want to represent the entire state of Iowa regardless of any political faction. I have only indicated in a general way the trend of my mind. I want to unite in all efforts to keep this government close to the people, that it may be in truth and in fact a government of all the people, for all the people, and by all the people.

"I thank you."

Immediately after his speech and after taking leave of his loved ones, Senator-elect William S. Kenyon left for Chicago to take charge of the preliminary work on the packers' cases. He was still Assistant to the Attorney General, and deeply concerned with his case against the packers.

Editorial comment was overwhelmingly in accord with his election. The Des Moines "Register and Leader," among others, printed these stirring words:

"No member of the legislature who listened to the brief remarks in which the newly elected senator accepted his commission failed to recognize that Iowa was sending to the senate a man who had youth, energy, and the fire of enthusiasm, a working program that will wear, and a winning personality.

"It will be worth all the contest to get a man of real inspiration in the seat of Dolliver. There are men enough in Washington of wealth and social and business standing. But there are not men enough who know the needs of the people and who are willing to take off their coats and get into the squabble for what Roosevelt has called a square deal."

William Squire Kenyon's chief in the Department of Justice, George W. Wickersham, expressed indirectly and in a few words the worth in which his legal attributes were held. "Have just learned of your election as senator. You will understand what

mixed feelings of pleasure I have at your success in this prolonged contest and the deep sense of my own personal loss in your transfer to another sphere of public usefulness."

Senator Cummins also expressed his pleasure upon the conclusion of the contest: "I congratulate you heartily upon your election and predict for you a brilliant career in the senate."

President Taft also added his public comment on the choice of the state of Iowa: "He will make an excellent senator because of his splendid equipment for the place. He is a good lawyer and a man of courage and high ideals."

On April 14, 1911, in the city that had grown dear to him through the years and in which resided all he held most precious in life, his mother, his wife, and his sister, he made this final and characteristic utterance before leaving for Washington, D. C. It was an epitome of William Squire Kenyon's very nature; indicative of his independence, of his sincere regard for his fellow-citizens, of his honesty and truthfulness, of his knowledge—the acquisition of more than forty years of learning and experience—and of his genuine sense of humor.

"I may not be able to satisfy you in the senate. My only creed shall be to do what seems to me right. I would rather spend the next two years in the senate and never compromise or trim, on any public question, than to remain therein for twenty years by processes of compromise and trimming. Backbone is more essential to our politics than wishbone."

Chapter Three

Statesman: 1911-1922

Major Concerns

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"Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter: So help you God."

William Squire Kenyon's certificate of election as senator from Iowa, was presented to the assembled senate on May 6, 1911, by Senator Albert Baird Cummins. Senator Kenyon was escorted to the Vice-President's desk by Senator Cummins, and there he swore to the above oath as administered by the Honorable William Alden Smith, senator from Michigan, who was the Presiding Officer of the day. He was the youngest man in the body, at that time, and his arrival was viewed with interest. The new senator's beliefs and methods were unknown. As a lawyer and public prosecutor the quality of his work was recognized, but the enforcement of law was not the same process as the making thereof. He was, to all intents and purposes, a member of the "insurgent" Republican group, but many surmises as to the extent of his insurgency were afloat. His presentation of a petition from "sundry citizens" of Cedar, Clinton and Osage counties, Iowa, "remonstrating against ratification of the proposed reciprocal trade agreement between the United States and Canada" served to confirm his insurgent standing slightly. As one of the routine acts of all senators it was not, however, considered peculiarly significant; any more so, than the pension bills that he proposed for those injured, disabled or dependent after government service. Senator Kenyon bided his time. He desired to become personally acquainted with the ways of the senate and to observe the actions of the more experienced legislators.

Fulfills Promise on Lorimer Case

The period of inactivity was not long, however. The senior senator from Iowa had brought about his appointment to the Committee on Privileges and Elections, one of the prominent standing committees of the senate. In view of the promise he had made during his speech of acceptance at the state capitol in Des Moines, Senator Kenyon at once

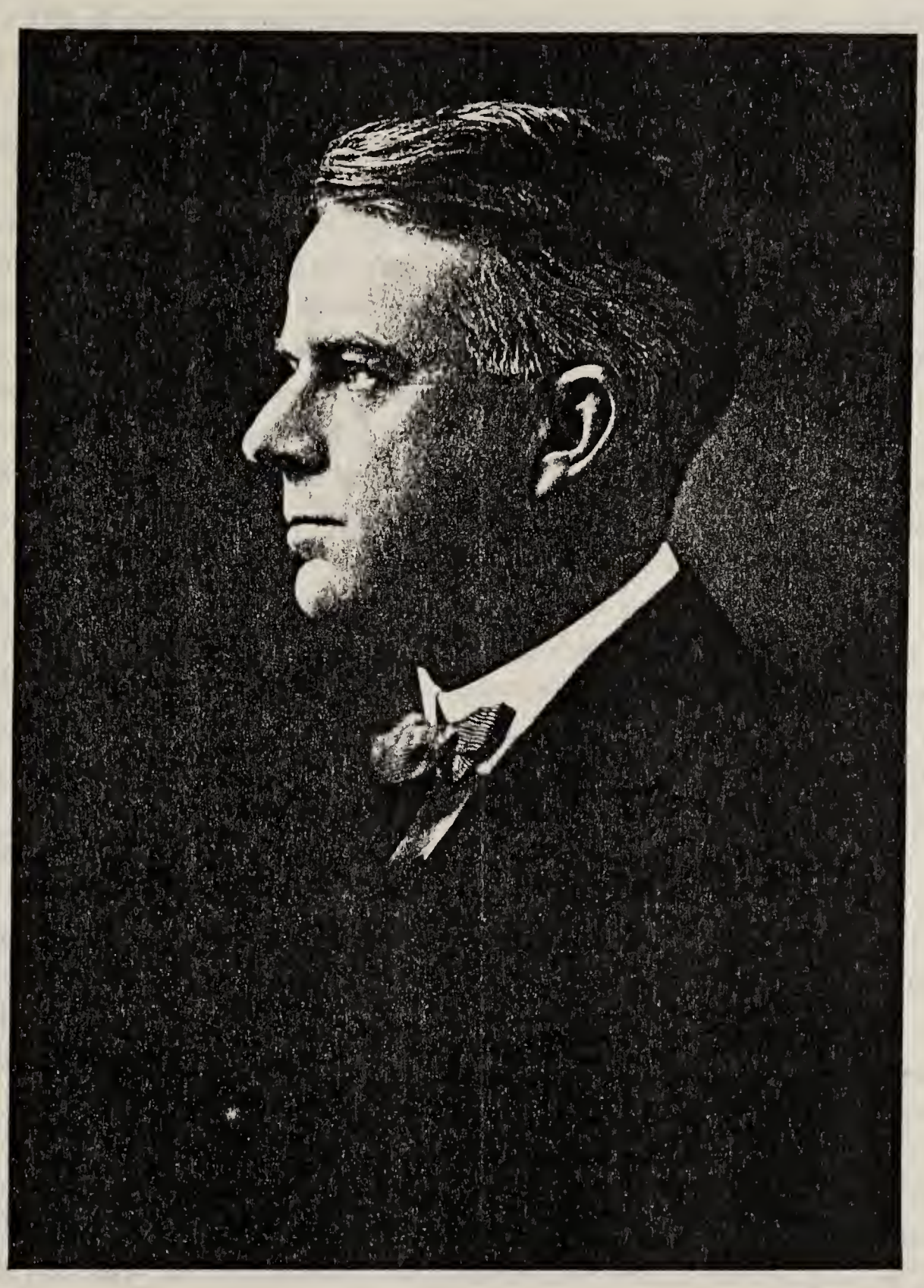
began a study of the Lorimer case. His first major speech, and his first display of ability concerned the investigation into the election of William Lorimer, Senator from Illinois.

The resolution "that the Committee on Privileges and Elections of the senate or any sub-committee thereof, be authorized and directed to investigate certain charges against William Lorimer, a senator from the state of Illinois . . . ." was the immediate cause for Senator Kenyon's action. The resolution was received with much discussion. Senator Lee of Tennessee, also a newly-elected member, rose and spoke against the resolution, and William S. Kenyon rose to sustain him.

"I had not intended to occupy any time of the senate in this discussion, but I find myself in the same position as the Senator from Tennessee, and in accord with his sentiments; and being a member of the Committee on Privileges and Elections and being compelled under my conscience, as I see my duty, to vote against referring the case to that committee, I want simply to give a few of the reasons for the belief that actuates me. I realize that a new senator is expected to accept the advice of St. Paul to the Corinthians regarding women, 'Let them keep silence in the churches'; but as the injunction is sometimes broken and as the Senator from Tennessee has broken the tradition here today, I may be excused for still further violating it.

"The senator from Idaho has said 'this matter is being tried everywhere else.' He is exactly right. I have been, during the last week, down in the beautiful southland in States whose Senators have possibly voted on this question before. It is being discussed and it is being tried there. I have been out on the prairies of Iowa, where we understand not what it means to secure seats in the United States Senate by trickery or bribery or corruption of any kind; and it is being tried there. It is absolutely true that it is being tried everywhere—on the farms, in the houses of business, around the firesides of the Nation. Public sentiment in this country, which you may sneer at at times and pay no attention to, has decreed that this investigation shall be complete, without any technicality; without any attempt to protect anybody, however high or low it may reach. Whether we believe it or not we realize the force and power and value of public sentiment. It is an abhorrent thing to me that the head of a great Lumber Trust can sit on the fine upholstered lounges of a club, glancing into a cocktail and surrounded by the aroma of a cigar, and boast of how they have spent a hundred thousand dollars to 'put over' an election of a man to the United States Senate. Who are they? If Mr. Hines has that information we want a committee that will make Mr. Hines produce that information.

"I have the greatest respect for the Committee on Privileges and Elections, especially for its honored chairman, the great lawyer from the State of Vermont; but if that subcommittee, in its previous investigation could not discover that this same party, who is



WILLIAM S. KENYON

AT THE TIME OF HIS ELECTION TO THE SENATE

now boasting of the money they spent, had anything to do with it—with the papers full of it, the air full of it—they could not have conducted a very thorough investigation.

"This question goes further than Mr. Lorimer. He sinks into insignificance. We know him not; it is a question of this Senate being on trial, and the whole form of government being on trial. It is a more important question than any other before the Senate. Shall men come here to make laws under these circumstances? Shall they come as representatives of special interests, or shall they come to represent the people? If Mr. Hines is correct—if the Lumber Trust furnished the money—what does the Lumber Trust expect back? If the Beef Trust furnished the money—what is the *quid pro quo* for the Beef Trust? Our Senators and Representatives dictate, largely, the appointment of district attorneys. District attorneys prosecute these trusts. The question goes to that far-reaching extent. If Mr. Hines, with his Lumber Trust, has contributed, has it been for the purpose of getting a district attorney to prosecute the Lumber Trust? If the Beef Trust contributed, has it been for the purpose of getting a district attorney to prosecute the Beef Trust? This is one feature of the case that has come to me painfully, because I have seen the withering blight of Lorimerism in many kinds of prosecutions.

"The country is tired of a half-hearted investigation. This matter 'smells to heaven,' and the people appeal to and believe in the Democrats as well as the Republicans uniting in the formation of a committee that they will be perfectly satisfied with—one that will go to the bottom of the matter without fear or favor. It is no imputation against the Committee on Privileges and Elections. I am a member of that committee. My friend from Tennessee is a member of that committee; but the committee made up its mind on the former testimony. There is a certain pride of opinion in all of this. If a case is tried and goes to an upper court and is reversed, if we have been beaten, we are not satisfied generally, as lawyers, to try that case before the same court, but we prefer a new court. So here there should be a new committee.

"We are, however, met with 'senatorial courtesy.' I am mystified by 'senatorial courtesy.' It seems to me that as to almost everything you try to do in the Senate it is suggested, 'Look out; you are offending *senatorial courtesy.*' *Senatorial courtesy* can not be a cloak to prevent men from voting their honest conviction. It shall never be with me. The people of this country are interested in this proposition—more interested in it than they are in *senatorial courtesy*—it goes to the very root of this government, and having a deep interest in and love for this Government, they intend to go through with proceedings and have a thorough investigation made, even though it may jar the somewhat dilapidated fetish of *senatorial courtesy.*"

That speech gave the assembled members an idea of William S. Kenyon's motives and oratorical ability, but it had little effect upon the passage of the resolution. A junior

senator, and a newly elected one, was listened to, but more often than not, politely ignored. The implied criticism of "senatorial courtesy" from such a one, while admired perhaps, was not endorsed whole-heartedly. "Senatorial courtesy" may have been a "dilapidated fetish" to Senator Kenyon, but to a large percentage of his listeners it was a strong bulwark against meddlesome and malicious attacks. The investigation was referred to the Committee on Privileges and Elections and it was left to Senator Kenyon and his associates to see that a thorough investigation was made within that committee. Although his efforts to make the investigation public were defeated his election promise was fulfilled, when on July 13, 1912, the Senate adopted the resolution, "that corrupt methods and practices were employed in the election of William Lorimer," and "that the election, therefore, was invalid." The frustration of his attempt seems to have made William S. Kenyon attack the problem with greater determination, and although the facts of his work were buried in the committee, William Lorimer was excluded from the senate.

Would Sharpen Antitrust Law Teeth

As a prosecutor of trusts William Squire Kenyon had found one thing that he deemed most disastrous to the enforcement of antitrust laws. It was the inability to put, as he termed it, "some of these people behind the bars." He believed that the teeth of the Sherman Antitrust Law were blunt and ineffectual without the added edge of possible jail sentence for the individuals of a combine. It was expected then when he proposed an amendment to the act during the first few months of his initial session. The bill was referred to the Committee on Interstate Commerce and was not heard of again until Senator Kenyon, fearful of its death there, introduced a motion to discharge the committee from further consideration of the measure. He stated, during the brief remarks accompanying the motion: "Fines are farces under the Sherman Act. Jail sentences are the only adequate remedy to stop the formation of great trusts and combinations." His bill was not given a chance and it was explained that the majority party did not deem it advisable to enter into trust legislation at that time. This attitude was surprising in view of the presidential policy and favorable public sentiment, but it effectually stopped any action along those lines. With the majority section of the senate unwilling to pursue the trust problem Senator Kenyon was forced to drop it for the time being. What he may have thought of the action can never be known, but it did not stem his determination to have trusts abated. He set aside all other purposes when a problem of vital interest to the farming people of his state and the nation was opened for discussion.

Opposes Reciprocity With Canada

The proposed Reciprocal Tariff Agreement with Canada was the subject of condemnation by the farmers of the mid-west and northwest, and was the basis of an action on the part of the "insurgent" Republicans. Senator Kenyon was interested in all phases of the proposed act as the representative of a great agricultural state. His speech on the subject was given after long deliberation, and signified the rise of a great champion of the farmer and his interests.

"I have no desire to occupy the time of the Senate in discussing at length this already much-discussed bill, but this is rather a quiet and meditative hour when the usual enthusiasm over the discussion seems to have somewhat abated, and I am desirous of submitting a few brief observations. To a beginner at least the debates in this Senate are of great interest.

"On legislative questions I believe we should, as suggested by the Senior Senator from Idaho (Weldon Brinton Heyburn) a few days ago, approach debate with an open mind, free from prejudice, with no preconceived notions if possible, and with a desire only to seek the truth and the right. Otherwise, what is the use of debate; why waste all this time? I have tried to approach in this way this very important question.

"I have attended the hearings of the Finance Committee religiously and listened to nearly all of this extended debate, although not at all times so religiously, trying to get all the light possible. Sometimes the light has seemed to shine rather dimly. I am not convinced that the proposed reciprocity agreement will work injury to the agricultural interests of the country; but inasmuch as there is a doubt in my mind on that question, I have deemed it my duty, as a representative of a great agricultural state whose prosperity is entirely dependent on agriculture, to cast my vote against the bill.

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"The farmer has stood by the Republican party and its tariff policy loyally and with steadfastness, in storm and in sunshine. The returns from the farm precincts after supper on election night have always been consoling to the Republican Party and enabled the Republican candidate to enjoy a restful night. The farmer is willing that the tariff be revised along the lines of Republican policy, farm products as well as manufactured products, but he is not agreeable to the proposition that the doctrine of protection shall not be of equal application; that it shall apply only to the manufacturer. He believes that if it is to exist for the manufacturer it should also exist for the farmer. If the tariff is to be taken off what he sells, he believes it should also be taken off of what he buys. He believes in an equitable application of this doctrine or no application at all.

"The complaint of the day is the high cost of living. It has been argued by some that the purpose of the present bill was to reduce the high cost of living. The President, as I understand it, has not claimed that it will reduce the cost of living, but that, in his judgment, it will prevent further increase at least for a while.

"We are living in an extravagant age. We are money mad and racing through life at a neck-breaking pace, piling up fortune on fortune; men worth millions striving for more, never stopping to think that there is no pocket in the shroud. The rich are flaunting their riches in the faces of the poor. We see some of our citizens at the coronation of a king endeavoring to outdo the aristocracy of Europe, even to the wearing of knee breeches, if necessary to properly ape royalty.

"We see a hundred and twenty thousand dollar organ at the opening of a millionaire's home in New York and a long line of hungry men at midnight in the same city, constituting the bread line. Girls working in stores for $5 a week, and the proprietor of such stores dying and leaving millions for museums. Is it any wonder that the people of the country are restless? The problem of the control of great wealth is the most important problem of the hour, and the one that should receive our attention. Would that we might get away from the racking, never-ceasing, wearying commercialism of the day and think less of acquiring wealth.

"But the farmer is not attending coronations or paying for one hundred thousand dollar organs. He is not spending the summer in yachting and is not starting on tours to Europe. It is true he takes the family and goes to the circus once in a while, but he does not indulge in vulgar displays of wealth. The farmer is not growing rich outside of the increase in the value of his land. He is not responsible for the high cost of living. He is not giving away libraries or museums or endowing colleges with millions. He is working from early morn till late at night in the sun and in the rain. His is a life of hardship, trial and toil, but nevertheless full of the good things of life, and his toil and labor and hardship make for the best citizenship. Free rural-mail delivery and the telephone have eased somewhat the life of the farmer and the farmer's wife. Men from the manufacturing States are legislating concerning him, many of whom do not know whether a hydraulic ram is used to pump water or whether its activities are directed toward propagating a better grade of sheep.

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"Trusts and combinations are responsible for the high cost of living, not the farmer. Let us grapple with them if we want reduction in the cost of living. The farmer has stood for a protective tariff all these years; has believed in planting the factory beside the farm, and thought in doing this he was helping to build up a great home market and benefiting the entire Nation; and all he asks now, and all he ever will ask, is that the protective tariff

laws be of equal operation. He is not asking for governmental favors—merely equal treatment. This, he insists, is justice, and this he will have. When trusts and combinations are controlled, when the law of competition shall again be enthroned, the cost of living will be reduced, and not till then. I am one of those who do not believe we should be in a hurry to adjourn. I do not understand the cry that business is disturbed by Congress remaining in session. It must be peculiar business that is disturbed by the exercise of governmental constitutional rights. Many important matters demand attention. I believe that Congress should remain in session and grapple with the trust problem. I have been strongly in hopes that we might enact some adequate pension laws for the relief of the men who freely offered their lives for their country, and I would gladly stay here until December to secure pension legislation.

"We must get back to more simple living in this country. We have forgotten how to practice economy; have forgotten it in the government. I have thought that the Senate might well commence to teach to the country a lesson in economy by abolishing a lot of useless commissions. We are surrounded on every hand by commissions; commissions to the right of us; commissions to the left of us. Canadian Boundary Commission, Mexican Boundary Commission, Monetary Commission, filled for the most part by those who have been repudiated by their constituencies.

"Mr. President, I am honored by representing, in part, a great agricultural state, in many respects the greatest state in the Union. In 1910 it stood third in the value of crops raised, exceeded only by the empire of Texas and the great commonwealth of Illinois. Mr. Blaine, when he was secretary of state, upon being asked by some friends from England, who were making a tour of the United States, what was the most essential thing for them to see, promptly responded that no matter what else they missed that they must not neglect to ride across Iowa in the daytime, and if possible, in the harvest season.

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"No industry within the borders of Iowa can prosper if the farmer does not.

"I have been charged with giving ear to the voice of my State on this question. To this I plead guilty and offer no apology. I will cease to be a true representative of my State when I cease to consult the wishes of my people in legislative matters. I have made an earnest effort to ascertain on this question the real interests of my State and to keep in touch with the best sentiment of the highest grade citizenship of which any State can boast—a citizenship which shares with Nebraska the honor of having the least per cent. of illiteracy of any State in the Union.

"This question is merely one of barter and trade—a commercial agreement. It does not involve a great moral issue. Therefore, if there is a doubt as to its effect upon

the agricultural interests of my State, it is my duty, as I see it, to resolve that doubt in favor of those interests and vote against the pact, and I shall do so."

The agreement was passed in spite of Senator Kenyon's, and others' speeches against it. The majority of the senate resolved the doubt in favor of the pact, and it seemed that the farm states were due to supply the test as to the efficacy of the arrangement. Fortunately, however, from his point of view, the Reciprocal Agreement was defeated in the Canadian Parliament, and the entire question was settled. William S. Kenyon's speech served another purpose. Through it he briefly outlined some of his legislative aims and it indicated to the Senate that a new and powerful advocate of the rights of the farmer had arisen. He also managed therein to give some of his philosophy of life, as well as his ever present determination to cope adequately with the trust problem. Although the youngest man in the body, William Squire Kenyon had proved that he was far from being the least in ability.

Opposes Separate Progressive Party

The people of Iowa were intensely interested in the work of their "trust buster." His work was watched with great satisfaction, and the satisfaction was transformed into votes at the first senatorial primary in the history of Iowa. William Squire Kenyon was nominated on the Republican ticket by a large majority. Meanwhile, the "insurgent" Republicans bolted the party under the leadership of Theodore Roosevelt, and formed the Progressive party. While a Progressive, Senator Kenyon remained firm in his support of President Taft, and had committed political suicide in the eyes of many throughout the state of Iowa. The younger Progressive element of the Republican party was particularly strong in that state. Such were Senator Kenyon's personal appeal and public record, however, that his decision to run on the Republican ticket did not affect seriously his chances for reëlection. The Fort Dodge "Messenger" stated the case in an article that appeared on September 8, 1912.

"Senator Kenyon's attitude these days makes us prouder than ever of him. If anybody thinks he is worrying about his political future they are badly mistaken. The chuckles of his enemies over his supposed dilemma are stimulated by their imagination only. There is not a more serene, reposeful individual in the whole state of Iowa than the junior senator. At a time of real crisis in his career his courage brushes aside the threats of politicians and he faces with unmoved nerve the results of the election whatever they may be.

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"The splitting of the Republican party into two factions could not be otherwise than depressing to a man whose recent election at the state primaries proved to have hosts of

friends in both wings of the party. Senator Kenyon is not an ungrateful man. He has a generous spirit. His life has a record of noble deeds for others. The sense of obligations to all the voters rested heavily upon him. They, more than any other consequences of the presidential lineup, were a burden on his mind.

"But when the time came for his decision to be announced, Senator Kenyon was moved by no personal consideration. At the time of assuming responsibility he was free from timidity. He asked for no consideration from either faction except the acknowledgment that he was swayed by no influence except his own conscience.

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"It remains to be seen whether the state of Iowa is to be deprived of the future services of its most promising statesman by the efforts to kill Kenyon off. As the evil consequences of such action are better realized and the public sees the loss it means to them, if they are deprived of their ablest champion in the nation's councils, one of the highest principled of all in public life, they may rally and sweep away in glorious defeat those who already are believing their plot cannot fail.

"If this wave of sentiment for Senator Kenyon does not come in time to save his political life then we will all see the best losers bow graciously to the outcome. The lightest heart of all on that day will belong to William S. Kenyon. Until that day his enemies will never see his back on the field."

While undoubtedly highly partisan and slightly melodramatic in its "plot" and "enemies" the article was highly illustrative of the esteem in which Senator Kenyon was held. A little calmer view, as non-partisan as a paper from a not adjacent city could present, was given by the Chicago "Tribune."

"However Iowa voters may divide as republicans and progressives on national issues, there need be no division in support of one candidate whose reëlection will depend upon the complexion of the next Iowa legislature. That candidate is William S. Kenyon of Fort Dodge, whose brief service in the senate has proved his mettle.

"Senator Kenyon, though a thorough progressive, as he has shown in the senate, has elected to support the regular ticket. We think this a mistake, but in this case it is an honest one which progressive party men can well afford to overlook in view of the character of Senator Kenyon and the genuineness of his progressive tendencies. The republicans and progressives should combine on Kenyon in the next legislature and thus assure another able progressive senator. With Cummins and Kenyon the state will be found on the forward side of progressive issues.

"In times of political break-up it is the real relations of man and not the nominal relations that must be looked to—those who belong together must see to it that they stay together, no matter in what incidental things they may differ.

"Senator Kenyon is a progressive. It is his bent. He could not be otherwise. No matter to what party he might belong, and no matter what party might be in power, he would be found on the progressive side at every roll call. It is out of such men that the progressive party must be made, and there is not such an overabundance of material that a single one of them can safely be discarded."

There was no real attempt to discard William Squire Kenyon after the sober thought of his agricultural constituency began to be felt by all the candidates for the state legislature. The farmers believed their greatest hope for adequate representation in Congress depended upon his reëlection. The candidates for legislative office of both Republican and Progressive tendencies began to use his name as a well calculated measure for securing their election. The campaign promise "to support Kenyon if elected," became more prominent as election day drew near. There was no force in Iowa that was strong enough to defeat this natural appeal, and his reëlection was more than conceded, it was assured. William Squire Kenyon was elected for his first full term as a senator from the state of Iowa at the regular assembly of the state legislature in Des Moines.

Strengthens Anti-Liquor Laws

During most of the furor over the state legislative policy concerning him, William Squire Kenyon was in Washington, D. C., attending the Third Session of the Sixty-second Congress. On December 16, 1912, he introduced a bill that was to increase his fame as a legislator and add new luster to his shining reputation as a man who sought justice for all. It was a bill concerning the interstate shipment of liquors, and was presented in a legal phraseology that may be abbreviated and simplified to read as follows: The shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory or District of the United States, or from any foreign country into any State, Territory or District of the United States, where the laws of such localities prohibit its sale, use or manufacture, is hereby prohibited. Although William S. Kenyon was heralded as a "dry" because of this bill, there was nothing other than personal habit to sustain the allegation at that time. The Webb-Kenyon bill had been a subject of more false interpretation than any bill of its kind. It was not a state or private measure, but a purely altruistic one—as too few works of legislation are—solely in the interests of justice. Senator Kenyon's own words can best sustain his action.

"I think this is a much misunderstood bill among the general public, judging from the letters and documents and printed matter that we are all probably receiving. It is charged in some that the bill is to prevent personal use of liquor and prevent use in fam-

ilies of intoxicating liquors, and the last carefully prepared document I received was that it was in disguise a bill to dissolve the Federal Union. Of course, if these things are true it is a very bad bill, and it ought not to receive any support. However, none of these things are true.

"Now, I think no lawyer who is honest with himself and perfectly frank will deny that there are very close constitutional questions involved in this bill. . . . Every forward measure must run the gauntlet of constitutional objection.

"The evil which this bill seeks to strike at is apparent, and the purpose, it seems to me, is commendable. In its ultimate analysis the bill is simply to permit the States to exercise their reserved police power without interference by the Federal Government; in other words, to subject interstate commerce in certain articles to the laws of the several states. This Government is one of delegated powers. It has been asserted by constitutional writers of great eminence that one of the incentive reasons for the adoption of the Constitution was to give free channels to commerce and not permit the States by various regulations to block commerce.

"The power of the State in its reserved police power is one which Congress does not give, and is one which Congress can not take away. It can not add one particle to or detract one iota from the police power of the States. These powers belong to the States; the right to make such laws concerning the health, life, and safety of its citizens as its legislative power in its wisdom may determine. This is just as much a right in the State as the constitutional right to regulate commerce is in Congress. The 'police power zone' of the State, if such an expression might be used, may at times lap over and intrude upon the 'interstate commerce zone' of the Federal Government. If such conflict ever does arise, the Federal Government, of course, is supreme.

"This bill if enacted would not be a law to bring about prohibition. It would not be a law to stop personal use of intoxicating liquors nor to prohibit the shipment of intoxicating liquors for personal use, nor to stop the use of intoxicating liquors for sacramental purposes. Its purpose, and its only purpose, is to remove the impediment existing as to the States in the exercise of their police powers regarding the traffic or control of intoxicating liquors within their borders.

"It is the spirit of our times and in the genius of our institutions that each State should exercise its police power free from the impediments that might spring from a narrow construction of the interstate commerce clause. Where a State has determined that intoxicating liquors shall not be manufactured or sold within its borders, is it not manifest that the citizens of other States should not be granted greater privileges in that State than its own citizenship enjoy?"

In further support of his measure Senator Kenyon quoted from the dissenting opinion of Supreme Court Justice John Marshall Harlan in the Bowman case.

"'It is inconceivable that the well-being of any state is at the mercy of the liquor manufacturers of other states.'

"That is the whole problem in this bill. That is the problem which this Congress is asked to meet, and in my humble judgment this measure will help to meet it."

The bill was ideal as an example of practical ethics. The force of Senator Kenyon's arguments was undeniable. A majority of the senate was firmly convinced of the legality of, the justification for, and the efficacy of his proposed enactment and gave its approval. President Taft and Attorney General Wickersham, both able constitutional lawyers, believed with all sincerity that the bill was unconstitutional, and the President vetoed it. Congress repassed the measure over the veto, and it became law. On January 8, 1917, by a seven to two decision, the Supreme Court upheld the Webb-Kenyon law as constitutional. The acuteness of William Squire Kenyon's legal mind and the breadth of its scope was never more clearly indicated than in the framing, presentation and support of this bill, his first great legislative success.

Supports Tariff Reduction

The major purpose of the new congress that met in the spring of 1913 was to frame a new tariff bill. The split in the Republican party had brought about the election of the Democratic presidential candidate, (Thomas) Woodrow Wilson. The same split had placed the Democratic party in ascendancy in Iowa, although the position was far from secure in a state so predominantly Republican. The Democrats had promised a revision of the tariff as then in force, the Payne-Aldrich Bill, and presented soon after the assembly of Congress the bill that became known as the Simmons-Underwood Tariff. William S. Kenyon was interested intensely in the measure, and in support of his late predecessor was laboring to bring about a revision within protective limits. In the eyes of Senator Kenyon, Jonathan Prentiss Dolliver had given his life in his efforts to reduce the rates of the Payne-Aldrich Tariff. Many of the Democratic senators were trying to force exceptionally low rates in the proposed enactment. Days and weeks were spent in heated debate. Panics were predicted by the hard-shell advocates of protective rates. Senator Kenyon believed that some of the rates were rather low, but not objectionably so. When Senator Stone of Missouri waxed sarcastic about the "blue tales of woe" from the Republican party, Senator Kenyon rose to defend his immediate associates.

"I only want to say, as the Senator from Missouri is charging this side *en masse* with such a purpose, I speak for myself and say that I have not hesitated whenever an oppor-

tunity has been presented, to express the belief that the passage of this bill would not induce any panic or any industrial trouble; and in my State I have watched the sentiment pretty closely, and the farmers and the business men do not share in any such opinion. I trust the senator will not impute it to everyone on this side."

Senator William Joel Stone's reply, while it may have been palliative, was an indication of the general feeling concerning William S. Kenyon.

"I was not thinking of the Senator when I made the remark to which he objects. I hardly had the Senator from Iowa, who has just spoken, and other Senators of his type and breadth of thought in my mind. I think that he and they proceed along a different and a higher line, both of thought and conduct, in the discharge of their senatorial duties."

The Underwood bill, however, continued to be discussed for a seemingly unending time. The Democratic group wished to force lower rates if possible, while the Republicans still held for the protective level. Senator Kenyon was annoyed by all the debate and he rose to speak when he found he could contain himself no longer.

"I know, Mr. President, it is customary in submitting remarks here on the tariff question to state that the speaker hesitates to take up the valuable time of the Senate! I had that feeling in my mind for the first two weeks of the discussion; but I have gotten entirely over it now. We have spent hours on the discussion of dextrine, wool grease, peanut oil, oxalic acid, and so forth. Even in the last two days we have entered upon the trial, practically, of a Senator in this Chamber; and I have been suspicious now and then that there might be an organized effort among a few of our Democratic friends to delay this bill by talking and filibustering, much to the sorrow of many of us on this side of the Chamber, who want to get through with it. So I am not going to enter any apology for taking up 'the valuable time of the Senate' in this discussion. I have come to the conclusion that it is not so very valuable after all. . . .

"I am aware of the fact that there are those in this country who are so blinded by partisanship that they will be actually disappointed if panic does not follow the enactment of this measure.

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"People in this country are not particularly interested in party welfare; they are deeply interested in public welfare, and any party that does not keep its promises cannot longer hold men to its ranks by imploring them by the old slogan of party fealty."

A clear indication of Senator Kenyon's unalterable independence, it was characteristic of many such utterances at times of useless debate. He had offered two amendments to the tariff bill that were typical. The trust problem still held major sway in his

mind. The two measures were to place trust and monopoly controlled products on the free list and to place aluminum on the free list. The last section was aimed at the powerful Aluminum Trust. The technicalities of enforcing such provisions were made much of by opponents and resulted finally in their discard. It was another setback for Senator Kenyon in his attempt to solve the trust problem.

Champions Federal Child Labor Legislation

The war clouds gathering over Europe began to cast their shadows on the United States. With the burst of the storm that threw the world into turmoil for four weary years, the word "preparedness" began to creep into the legislative actions of the United States Congress. William S. Kenyon who had fought bitterly against the excessive appropriations for public projects and buildings deplored the preparedness guise under which many such measures were advanced. Everything, it seemed, was given the label of preparedness. He attempted to indicate the fallacy of many of these proposals in a characteristic manner.

"I have a letter from a citizen who moved away from my State a good many years ago. It is along that line, and I have had it copied and will read it. I will not give the name of the town, but it illustrates how all legislation now apparently is to get ready against the invader whose foot some can almost feel upon our shores and shows a conception of the general situation shared in by many of our countrymen.

" 'Dear Senator: As a former resident of your State, I make bold to write concerning one feature of preparedness which Congress does not seem to be paying the attention it should, and that is the question of appropriations for public buildings. I know you have in the past opposed items in the public buildings bill for public buildings in small towns.

" 'Now, my dear Senator, please don't do so any more. We are expecting a public building in our town. Our Member of Congress promised it to us during the campaign and we are entitled to it. Besides, think of what it may mean along the lines of preparedness. The public buildings to be constructed in the future should be constructed as a sort of fort. A round building is just as feasible as a square one for post office purposes; then, when we are at the front fighting the battles of our country our wives and children can stay in the public building, if it is constructed as a fort, and we will feel they are safe from foreign invaders.

" 'If you are really a lover of your country do not oppose any appropriations for public buildings. Of course, if you intend to side against your country and sympathize

with its foes and be untrue to the flag that means so much to us, then we can not expect any help from you in securing our public building.

"'Truly yours,

_____ _____.'"

William S. Kenyon introduced a measure to control child labor as a means of real preparedness. That was one of the principal features of the Progressive Republican program, and for that matter all party platforms. Senator Kenyon had offered at various times, such an act for the consideration of the senate but, as he said, "they did not get very far." This particular measure was one organized by a Senate committee using similar bills as a basis, and he delivered the keynote address.

"I know that we are in a period of reaction; that anyone seeking to secure legislation along humanitarian lines is regarded as a dreamer, a sentimentalist, and a reformer, and the term seems to have become with many one of reproach. However, at the risk of such seemingly opprobrious epithets, I am going to plead, as best I may, with the Senate to take action at this season for the enactment of a national child-labor law. . . .

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". . . . the question of a national child-labor law is not a partisan question. The Republican national convention practically declared for it; the Progressive convention declared for it; and the Democratic House of Representatives has twice passed it by tremendous majorities. Since 1907, when former Senator (Albert Jeremiah) Beveridge commenced his fight for a child-labor law, a large number of the States of the Union have passed laws against child-labor, and the awakened moral conscience of the people of this country has been instrumental in securing the passage of those bills in various States.

"At this time when the attention of Congress is riveted upon the proposition of preparedness—preparedness for war, getting ready to kill people—it might be advantageous to pause and consider, as a part of real preparednes, a preparedness for peace, to comprehend, if we can, the larger vision of our country's future. Preparedness for war and for peace demands the conservation of the citizenship of the Nation and the stopping of child-labor in factories and mines and dangerous employments where children are injured and stunted, and so enters into the broader question of preparedness because it relates vitally to the future citizenship of the Republic, to the moral fiber of our people.

"The Nation is concerned in raising strong men to protect it and strong mothers to raise the soldiers of the future, if occasion shall arise, but it is fully as much interested, if not more so, in raising strong men and women to fight the battles of peace in the

trenches of private life, to preserve the great civilization of the future. The greatest asset of the Nation is its children, and the character of its citizenship depends upon the conservation of its children.

"First, Why a Child-Labor Law At All?

"That raises the question: Why child labor?

"The answer is simple: It is to get cheap labor, to increase profits and dividends, the placing of commercialism before humanity.

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"When I listened to a number of well fed, prosperous manufacturers contending before the committee a few days ago for the right to employ children and for the right of children to work, I thought of the words of Ernest Crosby, that great bard militant, who spoke for certain of our 'captains of industry.' He made them say—

'So we draw up the armies of trade,
And invade,
With the children in front to fall first, as is meet—
Children of mill and of sweatshop and mine.
And behind them the women stand,
Jaded and wan in line;
Then comes the hosts of the diggers and builders,
artisans, craftsmen, and all.
It is fine.
It is grand.
Let them fall:
We are safe in the rear with the loot in our hand.'

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"The injury arising from child-labor is two fold: First, to the state, and, second, to the child itself.

"As to the State

"Child labor is not economical labor. It reduces the standard of wages; it makes pauperism, crime, disease. Efficient labor must be intelligent labor. Child labor is not intelligent labor. There is nothing to be said in its favor except that at certain times, when great misfortune comes upon families, the labor of children is said to be absolutely

necessary to preserve the lives of the families. This is not, however, a good argument. Far better would it be to have some system of pensioning children or pensioning families. It would be more economical and cheaper for the nation than to lose or dwarf its child life. Think of the economic waste in the destruction of the power of the child when grown to manhood.

"We seem to have inherited child-labor from England. It was a bad inheritance.

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"The result of child-labor in England can not be cited as any argument advancing the strength of the British Empire. In fact, exactly the opposite argument can be made. Recent writers have claimed that the failure of England in the present war to make any showing in accordance with her high honor and tradition is due to industrialism, which has crushed out the hope and the aspiration of English workingmen and has stunted her children in factories and mills. Be that as it may, during the Boer War it is true that in Manchester, the home of the factory child, 8,000 out of 12,000 recruits were rejected as utterly unfit, and of the 4,000 retained only a scant 1,000 were really up to the requirements, and it is said that comparison of the records of the Crimean War half a century before proved that the average height had decreased three inches and the average weight about 30 pounds.

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"True the recent words of Chesterton:

> 'Hamlets breaking, homesteads drifting, peasants tramping, towns erased;
> Lo, my Lords, we gave you England, and you give us back a waste.
> Yea, a desert, labeled *England,* where you know (and well you know)
> That the village Hampdens wither and the village idiots grow,
> That the pride of grass grows mighty and the hope of man grows small.
> Will you call on croft and village? Let the rabbits hear your call.
> Would you call upon the people? Would you waken these things, then?
> Call on God, whose name is pity; do not ask too much of men.'

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"This republic must learn the lesson. How can there be any more important question in its preparation for defense and in its preparation for peace than that there be justice to all its people. Justice is denied the children growing up if they do not have the right of childhood and to become fully developed men and women. It is unjust to all the people of the Nation that its citizens should be destroyed in this manner, for, after all, the real purpose of the Nation is the development of the best in citizenship and in life.

Battleships and armies and commerce do not in themselves make a nation. Wealth, prosperity, and industrial life are not sufficient. Men and women, strong, courageous, full of hope, ready to grasp opportunity, high ideals, lives devoted to service, ready to die for principle, are what make great a nation. Dwarfed, stunted, hopeless children can not keep up ideals. What kind of fathers and mothers will they make? As every argument is against war morally, economically, and biologically, so is every argument against child-labor from the standpoint of the Nation. It is the duty of Congress to wake up and solve this problem. We pay attention to the development of hogs and cattle and the conservation of forests and streams and water power; why not child conservation? If child labor is necessary to sustain any industry, that industry ought to go down.

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"The Need of a Child-Labor Law for the Child Itself

"More important from the standpoint of justice than the effect upon the State of child-labor is the effect upon the child itself. The child, brought into the world without its consent, has some indisputable rights; one is the right to grow up and develop to be what God and nature intended the child should be. No one is intending that children should not work in healthful pursuits or be taught along lines to follow in after life. . . . The warfare is not against working out-of-doors or teaching children a trade by which they may earn their living. Everyone believes that work that builds up is good for children—the child's work is part of his very education—but the warfare is against a very different class of labor; against labor that tears down in the grimy dust and smoke of factories, the endless and dizzy whirl of machinery, the bad air, poor ventilation, that stunts the life of the little ones. It is this labor that the conscience of the American people is against. Shall we deny to children the divine right to grow up to men and women physically, mentally, morally—not to have their childhood coined into dollars; no chance to dream, to play?

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"Need of a National Child-Labor Law

"I have discussed hurriedly the question of 'Why a child-labor law,' and I want to say just a few words on the question 'Why a national child-labor law.' As nearly all the States of the Union have adopted child-labor laws, the question naturally arises, 'What is the use of a national law?'

"State child-labor laws are not as well enforced as a national law would be. There should be a uniform standard. Some of the States permit child-labor over 14, others over 16, some over 12. It is perfectly apparent that it tends to bring about a condition of unfair competition, where the manufacturer of one state may employ children over 12 or 14, and in another adjoining State can not employ them under 16. Likewise the different States in their laws differ as to night work, differ as to the method of proving age, as to the certificates for employment. Systems of inspection are different. One State is interested in the children of another State. It is not merely a State problem, and laws are better enforced in Federal courts than in State courts. It is a national problem. These children are growing up to be citizens of the Nation as well as the State.

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"Constitutionality of a National Child-Labor Law

". . . . I do not know, if Congress has a doubt about the constitutionality of a proposed legislative enactment, just what its duty is. That is for each member to determine. It is a principle of constitutional law, however, that all legislation, whether of Congress or of the States, must be taken to be valid unless the contrary is clearly shown. Of course, when a law comes before a court for interpretation it is to a certain extent limited by the fact that every presumption is in favor of constitutionality. Hence Congress should carefully consider constitutional questions. But it does seem to me that a mere question in one's mind as to whether or not a court may hold a statute unconstitutional is not enough to warrant voting against a measure even where it may fairly be said to be a somewhat doubtful question. The simple question here in the last analysis and in summing it all up is—Is this law a regulation of commerce? If so, no effect on manufacturing can be considered.

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"There is little doubt in my mind as to the constitutionality of the measure, because of the power of Congress in the interests of the general public welfare to take out of interstate commerce those things that are injurious to the public welfare.

"Those who advocate this kind of legislation may be called altruists, sentimentalists, or what not. It makes little difference to them. They will go on with the fight, a fight that must eventually be crowned by victory. Justice, not charity, is the need of the age. Justice is the foundation of all social order. The old order passeth: Men crippled in industrial pursuits, women's backs bent by long hours of toil, children destroyed by labors in mines and factories, their little lives ground into dividends. The new order cometh

where it shall be easier for every day men and women to live and enjoy life, to have their little homes, to develop ideals, to realize hopes. We have the right to the vision of a broad humanitarian nation interested in humanity as well as prosperity. That vision is becoming a reality, although possibly slowly; then happy, healthy children, strong, vigorous men, home-making mothers and wives, a people not devoted to the principle of each for himself, but rather to the principle of each for the other; a nation whose only throne is justice, a republic whose mission is to keep open wide the doors of opportunity not only for those of today, but for the children of tomorrow."

This impassioned and moving plea certified the wisdom of those who selected William Squire Kenyon to open the campaign for a national child-labor law. In view of it, true indeed were the words of Senator Stone, already mentioned; "he and they proceed along a different and higher line, both of thought and of conduct, in the discharge of their senatorial duties." The act of itself prohibited the interstate or foreign shipment of any product of a mine or quarry in which children under sixteen were employed, or of any mill, cannery, factory, workshop or manufacturing establishment in which children under fourteen were employed or children between fourteen and sixteen were employed before 6 A. M. or after 7 P. M., or more than six days a week or more than eight hours per day. The bill in this form was passed in September, 1917, and proved that the Senate at large was more than amenable to forthright and accurate reasoning.

The constitutional question arose the following year and the law was declared unconstitutional because it "did not constitute a valid exercise of regulation of foreign or interstate commerce." The purport of the law was commendable in the highest degree, but the vehicle for its presentment was not the correct one. The constitutional interpretation was not held to be absolutely in error, but of too liberal a scope. Senator Kenyon did not relinquish the fight for child-labor control. He realized that the only adequate means of gaining the desired effect was through a constitutional amendment. He applied his tremendous energy and vigorous mind to that end. The fruit of his efforts reached maturity after he had ceased to be a member of the United States Senate and, as such, does not concern us here.

Lays Aside Peace For War

While the strenuous efforts to bring about William S. Kenyon's humanitarian purposes were being pursued, the clouds of war began to infringe upon American rights and honor. The cries of those who demanded war grew louder as the cause for such action became more and more apparent. Senator Kenyon was a peace-loving man at heart, and did all that he could to honorably bring about the evasion of the conflict. As one of the

"Willful Twelve" he strenuously opposed the armament of merchant vessels, as he deemed it an open invitation to conflict, and would do more harm than good. It was, therefore, a shock to the assembled Senate when, on April 4, 1917, William Squire Kenyon came out openly for war with Germany. The reasons for his action were those of a just and honorable man who had tried, so it seemed to him, in every reasonable way to avoid such action. It appears differently now, but we can not question Judge Kenyon's intellectual honesty in the decision he reached at that time.

"I am one of those who have been strongly opposed to our engaging in this war, and earnestly wish there were some honorable way in which it could be avoided. Matters have now reached a crisis. Regardless of how brought about, we have drifted into conditions where it seems impossible longer to keep from this terrible conflict, however much we may desire to do so.

"In the present solemn time no one can claim that the great Republic has been impatient. Patience has its limitations, and the limit seems to have been reached. The war in which we are about to engage is not of our choosing. The government of another nation with which we have been in harmonious relation through all the years is now waging war upon us. Uncle Sam, the patient giant, with a spirit of charity, has done his best for peace. Destiny seems to decree otherwise. The people will back the President and Congress with men, money, and loyalty. There will be no difficulty in finding recruits if in the mind of the people there is the conclusion that this is a struggle to help save the democracy of the world or to maintain the honor of the United States.

"I have been a firm believer that there was a Divine Providence guiding the destiny of individuals and of nations. Difficult, indeed, has it been to see such Providence in this war, but if out of this turmoil and strife and suffering and bloodshed the self-assumptive, divine right of kings and kaisers and czars shall be overthrown; if thrones shall totter and fall and in their place great governments of the people arise, then the hand of Providence may be apparent.

"I regret that when the war started there was not some method of compelling the Czar and the Kaiser and their kind to enter the first battle on the firing line. That would have lessened its duration. Crowned heads seem to have done none of the dying.

"It is time now that all voice of partisanship should be stilled. The hour of action is here. It is no time to talk about mistakes; no time for criticism of the President, of the Cabinet, of Congress. They are all doing their duty. It is no time to waste energy censuring and criticizing one another; no time to denounce those who have been earnestly contending for peace and who are fully as patriotic as those who have been more vocal. It is no time for divided allegiance. It is a time for 100 *per cent* Americanism.

"The people of this Nation should stand as one man, realizing the solemnity of the step about to be taken. The great Republic must accept the challenge of autocracy and go forth to help in the battle for the world's democracy. Our hand is now to the gun. We must prepare and prepare well. When we hit, we must hit hard. The roll of honor of the American Republic in every war in which it has engaged evidences no lack of patriotism when the Nation's welfare and honor are involved.

"In such a time the spirit of selfishness in our Nation must be dethroned. 'No one for himself and everyone for his country' should be our motto. Let us forget for a while the making of money. Let us realize that everyone must bear a part of the sacrifice and burden. Those who in this time of national emergency will try to make excessive profit, either in the manufacture of those things which the Government must have to carry on war or by combinations to raise the prices of the things the people must have to live, are just as guilty of treason as those who give aid and comfort to the enemy. They should be treated as enemies of the Republic.

"We do not go to war with any spirit of hatred toward the German people. If the people of Germany controlled their Government, there would be no war. The action of the American Congress today rings the bell for the falling of the curtain on the house of Hohenzollern. Germany as a republic, freed of this bloody dynasty, will know no limitation in the progress and development of her people.

"Peace is a passion with me. I am not, however, one of those who believe in peace at any price. Some things are worse than war—dishonor infinitely so. I can not close my eyes to present conditions—to attacks upon our flag, to the killing of our people, to plots against our Nation. Nor can I in imagination close my eyes to future scenes—battlefields, sacrifices, bloodshed—that probably will be brought about by our action here today. I wish this cup could pass from us. It can not. We can not flinch in the performance of our duty. The American people must approach this crisis in a spirit of solemnity. It is a weighty hour to the Republic. This war will not be fought with speeches at banquets, nor by applause in Senate galleries, nor amid the Havana-laden atmosphere of luxurious clubs.

"General Sherman declared that war was hell; but modern war is worse than hell, for no devilish ingenuity could equal modern methods of injury and torture in war.

"At this time, when it is certain that war is upon us, there should be the least division of counsel that it is possible to have. Outside of any other reason I would vote for this resolution on that ground. It must strengthen our cause if the world believes we are fairly united.

"If this resolution committed our Nation to any foreign alliance I could not support it. I do not so construe it. Coöperation with foreign nations will, of course, be neces-

sary; but any question of alliance must of necessity come again before Congress. The question of sending our army, or any portion thereof, to the battlefields of Europe, is a question, as far as I am concerned, that is not settled by a vote for this resolution.

"Any foreign alliance would utterly change the policy and traditions of our country for over 100 years. We had better, before that happens, take counsel of the Father of his Country. He warned the Nation against such alliances in that memorable Farewell Address. Let us think well before we enter into that field. The Nation will meet this question when it fairly arises.

"Not with hope of reward does the Republic draw the sword; not with lust for power; not for the conquest of territory, but solely, as in the Spanish War, for humanity and the preservation of its ideals. When peace comes—which God grant may be soon—when the peoples of Europe may be freed from the tyranny of crowns and sceptors and come from the darkness of bondage into the light of freedom, as are now the people of Russia, the giant Republic of the West will have no apologies for the part it has played under the providence and guidance of the Almighty.

"The words of Paul to the Corinthians might well be our watchword at this time:

"'Stand fast in the faith; quit you like men; be strong.'

"Our strength is the unselfishness of our purpose; our faith the God of nations. With such strength and such faith we will quit ourselves like men."

The foregoing shows that shrewd and able as he was, Senator Kenyon was nevertheless obsessed with the idea that seemed to control the whole nation from President Wilson down, that the war was for the purpose of destroying autocracy and enthroning democracy. He shared in the general delusion that it was a war to end war; a war to set aside kings, kaisers and czars and to usher in a better day of freedom and well-being for the people. At the time he made this speech Senator Kenyon did not realize the fallacy of this idea any more than did his countrymen. He could not then have foreseen that in place of the autocrats that the war destroyed would arise a mightier set of tyrants; instead of righting the wrongs then existing, that the war would produce other and greater wrongs; far from solving the then existing problems, that the war would create far greater and seemingly unsolvable problems to vex the world for generations to come. How strange it is to look back seventeen years and remind ourselves of the thoughts we were thinking then! Progress is slow. Our prophets see visions of a better day and it seems at times that we are about to pass over into some promised land, but before we can cross over Jordan, human limitations conspire to send us back for another forty years wandering in the wilderness.

Sustains Hoover Food Control

The integrity of his word was no more firmly impressed upon the minds of his colleagues than by his constant support of President Wilson throughout the duration of the war. Every measure needful for the furtherance of the war he advocated with irrevocable determination. He fulfilled to the letter his purpose of firm allegiance and did more than his share of work. The trust problem still remained uppermost in his mind, and his scathing indictment of food profiteers never was more definitely expressed than when he spoke in support of food control. He was a strong advocate of governmental regulation, and an ardent supporter of Herbert Clark Hoover in his thankless task of conducting the food administration.

"I say this, that the farmers of this country are perfectly patriotic. They want a square deal, and they are entitled to it. They are taking great risks in raising produce by reason of labor and by reason of climate and the high prices they are compelled to pay for what they must have; but I think it was a governor of North Dakota, a real farmer, not a political farmer, who said before the committee that after all was said and done the farmers of this country preferred a food supply controlled by the Nation rather than a food supply controlled by the gamblers.

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"There seems to have been a persistent attempt in this chamber to rather discredit Mr. Hoover by calling him a food dictator. England has adopted strenuous acts on the food question. They practically have a food controller. The orders which he has issued have seldom been disobeyed. The power being there to remedy the situation has made necessary the exercise of that power. When we give these great powers to Mr. Hoover, as it is conceded he will be the man, then probably they never will be exercised. But if they are to be exercised, there is no better man to do it. Mr. Hoover does not want to injure the American farmer or the American business man. He does not want to injure his country. He is just as patriotic as we are, and he has made the sacrifice, I understand, of coming here without any compensation at all and giving his time and his talent to the tremendous critical and abusive work that he will have to carry on, because no man can occupy that position and not be condemned by criticism throughout the length and breadth of the country.

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"I do not know how poor people are going to stand the ever-increasing high prices. . . . . The gentlemen who always rise when the orchestra plays the *Star-Spangled Banner,* who put an extra flag on their automobiles, and then mark up prices to the people,

might as well understand that this country is not going to endure this kind of business; and we, interested in the success of this war, have a duty upon us to stop them. . . .

"These food speculators—and I do not want to say anything very mean about them—are the highwaymen of internal commerce. I want, however, to apologize for using the term 'highwaymen of internal commerce' in connection with them. The highwayman or the sea pirate is a Christian gentleman compared to them. It takes some courage to be a highwayman, but no courage to be a food speculator. It is unfair to the highwayman to use him for a comparison. These gentlemen at the present time are allies of the Kaiser, as they are weakening the American Nation in its contest."

Works for Slovak Liberty and is Decorated

During the days of conflict, William S. Kenyon became interested in the predicament of the Bohemian people. He introduced a resolution to the effect: "That Bohemia ought to be of right free and independent," and "upon the final termination of this war and in the adjustment of peace the United States shall insist on independence for Bohemians and Slovaks and upon the reconstruction of a Bohemian-Slovak state as an essential part of any just and democratic settlement at the end of the war." Other bills of a similar nature were proposed and were in the hands of a committee for final adjustment and presentation. The arrival of Professor T. G. Masaryk in the United States during the year 1918 made appropriate Senator Kenyon's further efforts.

"I have felt, and so have other senators, as evidenced by these resolutions, that the American Nation should send some word of encouragement to the Czecho-Slovaks in their struggle for independence. At this time, when the citizens of the United States of Bohemian lineage are welcoming Professor T. G. Masaryk, the greatest living exponent of a free and independent Czecho-Slovak state, and as the Secretary of State a few days ago expressed the earnest sympathy of the United States toward the nationalistic aspirations of the Czecho-Slovaks and Jugo-Slavs, it is not inappropriate that the Congress of the United States should take action with reference thereto, or, if not, at least express its earnest approval of the struggle for liberty and nationality of these people bowed under the Austrian yoke.

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"Hard, indeed, is it for us to realize the condition of people fighting as they are doing in the very heart of the enemy. The voice of America must be an inspiration to them. Peace terms must include provision for a free and independent Czecho-Slovak state, and we should send that message to these liberty loyalists. Let Germany understand this.

Let Austria-Hungary understand it. Let them know that America is to stand for a free Bohemia; but a Bohemia working out its own ideals and its own salvation."

The desired recognition of independence was given by the United States Government on September 3, 1918, and William S. Kenyon had achieved another major purpose. Nine years later while a federal judge, Senator Kenyon received an award from the Czecho-Slovak government for that work. It was an expression of gratitude from a friendly people who benefited by one of his many altruistic acts. It is valuable as an indication that his efforts were international, as well as national, in their effect.

"By the decree of the government of the Czechoslovak Republic, dated December 1, 1918, and according to the Act of the Ministry of National Defense, dated December 2, 1918, as well as the submitted proposal of October 1, 1927, a Revolutionary Medal is granted to

WILLIAM SQUIRE KENYON,
United States Circuit Judge,
Fort Dodge, Iowa,

in recognition of his active help and contribution to the victory and as an expression of gratitude of the nation for the liberation of its country.

Minister of the National Defense,
URDZAL.

Prague,
October 28, 1927."

Denounces Liquor Traffic and Demands Prohibition

In the winter of 1916, a bill for the establishment of prohibition in the District of Columbia was introduced. Commenting on that bill, Senator Kenyon gave the first indication of his future strong support of dry measures.

"It is inaccurate to say that prohibition is to become a great issue in this country, because it is a live, active, undodgable issue today; an unpleasant one, possibly, for politicians, but one they can not dodge.

"One of the greatest leaders of the Democratic Party, three times its candidate for President, Secretary of State under this administration, has declared that he intends to do all he can to write a prohibition plank in the next national platform of the Democratic Party, and when Mr. (William Jennings) Bryan, with his wonderful personality, his splendid manhood, his power of oratory, and his courage, with the audiences which he can attract in the American Republic, makes it his business for the next few years to hold up the saloon interests of this country to the gaze of the American people, those who have stock in saloons might as well commence selling it just as quickly as they can."

Senator Kenyon introduced a bill on May 9, 1917, "to suspend the manufacture of and all traffic in intoxicating liquors for beverage purposes during the time the United States may be engaged in war, and fixing a penalty." The bill was referred to the committee on agriculture and forestry and reappeared as a part of the prohibition amendment that was passed. A few weeks before this effort, he attacked the post office appropriations bill because it held a clause concerning the shipment of intoxicating liquors. William S. Kenyon did that to protect his own measure on interstate shipments. It can be seen that the Senator was building a great reputation as a prohibitionist before his utterances on the federal amendment concerned with the subject.

An amendment for national prohibition was proposed as an adjunct to the war-time food control bill. The justice of the move in relation to the conservation of food stuffs has not been kept clearly in mind. In a series of thundering questions, William S. Kenyon stressed that phase of the subject. A keynote speech in the dry campaign, the ardent words rightly earned him the designation of "dry," something his measure for the control of interstate shipment of liquors had not done.

"Why do we prohibit the boys in the Army and Navy from having booze and insist that those who remain at home shall have it?

"If liquor is a bad thing for the boys in the trenches, why is it a good thing for those at home?

"When they are willing to die for us, should we not be willing to go dry for them?

"Will a sober nation not win the war quicker than a drunken nation?

"When the food controller asks everyone in the country to conserve the food supply, why must the food supply going into beer be excepted?

"Is it not as much waste of foodstuff to put it into beer as to put it into whiskey?

"If more foodstuff goes into beer than into whiskey, why do we prevent foodstuff going into whiskey and permit it going into beer?

"Will rebellion come in the cities, as we have been told, if the workers do not have their beer?

"Sixty per cent of the Nation, territorially, is dry. Are the feelings of people living in that territory entitled to any consideration?

"If the beer drinkers are going to rebel unless they get their beer, will the temperance people rebel unless they get temperance?

"Does the rule only work one way?

"Why do not the temperance people claim that they will rebel also? No one has heard any such thing from them, nor will anybody hear such thing.

"The temperance people will be for the Nation no matter if beer and whiskey be forced upon them. Their patriotism does not depend on having their own way."

"Is patriotism purchased by beer worth while anyway?

"If someone were taking as much foodstuff as goes into booze and dumping it into the sea, what would the people of the Nation say?

"If some one should advance the argument that this was necessary in order to appease certain people who believed in dumping foodstuffs into the sea, and that if they did not do it it would arouse riots, would we accede to their request?

"If some learned Senator, speaking as if the Almighty had delegated to him supreme wisdom and in a tone indicating that such wisdom would perish from the floor when he retired to the cloakroom, should so claim, would we be sufficiently impressed?

"Should not hereafter all bulletins issued requesting the people to conserve the food supply urge them also, for the interest of public peace, to have all the foodstuff they could made into beer?

"Is it reasonable to ask the temperance people of the country to conserve and save every particle of food and at the same time permit some of it to go into booze?

"Is beer more essential to the American people than bread?

"What kind of people are they in this country who are not willing to give up their liquor to help their country?

"Is the food conservation to be for the benefit of the many, or is it to be limited in order that the few may have their drinks?

"Have we reached a point in this country where the war cannot be won unless people who drink are permited to tickle their stomach with wines and beer?

"Will beer patriots win the war anyhow?

"Are the interests of brewers in this country more important than the winning of the war?

"Are we willing to sacrifice everything in the country to win the war, except beer?

"If the temperance forces in the Senate were responsible for delaying the food bill, as charged by certain liquor-interest papers, why is it that the food bill has been delayed for three weeks after the temperance sections of the bill were settled?

"With the great demand for labor in this country, and the high wages, could there ever be a better time, as far as the laboring men are concerned, for the transition from a wet to a dry Nation?

"When there is a shortage of labor in the important and necessary work to carry on the war, why waste labor in making booze?

"If booze is essential to win the war, why stop selling it to soldiers?

"I have listened to the argument as to State rights; but I have discovered that the doctrine of State rights absolutely vanishes in Congress whenever an appropriation is attached to the bill.

"The advance in this country of the temperance cause has been due to the fight against the American saloon. That is what has been at the bottom of it. That has brought us to the issue of national prohibition.

"This amendment is to the States the right to speak their desire on this question. Why should they not have such right? The American people are tired of the saloon.

"No one rises on this floor or elsewhere to defend the American saloon directly.

"The American saloon has no conscience. It never did a good act or failed to do a bad one.

"It is a trap for the youth; a destroyer for the old; a foul spawning place for crime; a corruptor of politics; knows no party; supports those men for office whom it thinks can be easiest influenced; has no respect for law or the courts; debauches city councils, juries and everyone it can reach; is powerful in the unity of its vote, and creates cowards in office.

"It flatters, tricks, cajoles, and deceives in order to accomplish its purpose; is responsible for more ruin and death than all the wars the Nation has ever engaged in; has corrupted more politics, ruined more lives, widowed more women, orphaned more children, destroyed more homes, caused more tears to flow, broken more hearts, undermined more manhood, and sent more people to an early grave than any other influence in our land.

"Its day has come. No subterfuge can long save it. It will be dragged into the open, the influences behind it stripped of their masks. A mighty public conscience is aroused, moving on rapidly, confidently, undismayed, and undeceived. Behind it are the churches of the Nation—Protestant and Catholic—schools, colleges, and homes. This public conscience is not discouraged by defeat or deceived by cunning devices, by shams or pretenses. Its cause is the cause of humanity, of righteousness, and God Almighty fights with it.

"It has no desire to injure the saloon keeper. It would help him, but it asks no quarter of the saloon and it proposes to give none. The forces fighting the saloon are not composed of mollycoddles. The most far-seeing business minds of the country are in the ranks.

"Men will have to take their place in this fight. They can not sit on the fence. This fight is no place for the political coward to stand between the lines. He will be shot from both directions.

"No denunciations, no slurs, no jests on the floor of the Senate, no hurling of epithet, no cheap ribaldry in the cloakrooms will stop this fight. It is going on in Congress, and it is going on in the Nation until the tear-producing, orphan-making, home-wrecking, manhood-debauching, character-destroying, hell-filling saloon business is banished from this country. The American saloon is just as certainly doomed as slavery was doomed.

"A saloonless Nation means an efficient Nation, better able to cope with any problem threatening it from without or within."

William Squire Kenyon was a total abstainer and a keen observer of the pernicious results of liquor indulgence in others. In the light of present policy it would seem that his prophecy as to the extinction of the saloon has failed. Speaking more accurately one might better say that it has only been postponed. His terrific indictment of the liquor traffic is as true today as when he uttered it. The saloon has returned and the problem still cries aloud for solution.

Advocates Cancellation of French War Debt

While these and other measures were working out their destiny, Senator Kenyon sailed for Europe in the latter part of the year 1917, for a first hand view of the battlefields. The sight made a deep and ever dwelling impression. When he returned the German proffer of peace was on all tongues. In a denunciation of that offer he gave brief glimpses of his experiences abroad. He also uttered a belief that remains as a problem today.

"We did not start the angel of death fiddling over the world, but we are going to have something to say about how and when the war is going to end.

"I stood one evening a little way below San Quentin, near the third line trenches. It was a Sunday evening. I stood outside in the utter blackness of the night, just about church time in our own country. As far as you could see, the flashes of the great guns were visible, some of them twenty miles away, that you could not hear, others nearer. Rockets were going up from *No Man's Land.* I had read a book going over on the boat called 'Where is God?' and as that scene unfolded before me in the blackness of the night, hell-fire literally on black cloth, I could not help repeating that question, 'Where is God, that lets a thing like this go on?'

"Germany in her opinion, is in partnership with the Almighty attempting to terrorize the world. Belgium with only a little territory left is not dismayed, nor is France.

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"When this war is over, I have said before and I reiterate it, I hope this great, rich Nation will say to poor, bleeding France: 'Keep all of the money we have loaned you. We ask not for the return of a single dollar.'

"There is much talk in the world about peace. Yes; everyone would want an honorable peace. We are fighting for a permanent peace. Everyone would want the slaughter to stop. The world is weary of war. But how can there be peace? Can you sit down

and work out a peace problem with a mad dog? Peace, yes, but not with the Hohenzollern. When they abdicate we can talk peace with the German people."

The failure of the German and Austrian armies was strengthening the hope for permanent peace when William S. Kenyon turned his attention once more to the French debt problem. His resolution, that "all obligations of the Republic of France to the United States for moneys borrowed or funds advanced since the commencement of the present War, including interest thereon, be and are hereby cancelled" was not passed. The intricacies of such a proposition were made much of and the measure died after a hard fight. The spirit of it has remained, however, to haunt every aspect of the foreign debt question. The author does not question the wisdom of this cancellation policy. Had it been extended to all the nations with which we were associated in the World War it seems to him that our own country and other countries would have profited immensely from such action. For every dollar we have collected, or will collect, on account of these war loans we have lost, and will lose, many dollars in profits on foreign trade which has been greatly reduced on account of our insistence upon the repayment of these loans. Our trade would have decreased any way, but certainly not so much if it were not for our war loan policy. Not only that, but we have brought hatred and ill will into international relations that a generation will not erase. If we had cancelled the war loans it would most certainly have led to a general cancellation of inter-allied loans as well as reparations. With this pressure off of Germany and with the good feeling that such action would have engendered, German democracy would probably not have succumbed to Hitlerism. Selfishness alone, not to mention Senator Kenyon's altruism, would indicate the wisdom of his cancellation policy.

Achieves Packing Industry Control Legislation

The World War had accomplished two things that aided Senator Kenyon in his legislative work. It brought the people and Congress to a realization that food prices were being manipulated or controlled by certain exclusive groups. Also, it served to notify the nation that its pride of intelligent citizenship was not entirely born out by the facts. The latter of the two will be reviewed in an ensuing chapter. To cope with the other of those situations, and under more fortuitous circumstances than ever before, William Squire Kenyon introduced a bill to regulate and control the packing industry. The proposed bill was destined to rank among the most important of all Senator Kenyon's legislative acts. The culmination of years of sincere and strenuous effort, it brought into existence a duel that was to extend, roughly, over a two-year period. In brief the bill (a similar bill was introduced into the House by Representative Sydney Anderson

and in the Senate by Senator John Benjamin Kendrick of Wyoming), was intended to do the following things: (1) Place all packers, stockyard operators, live stock distributors and all persons doing business in poultry or dairy products under the control of a "Commission of Foodstuffs," supervised by the secretary of agriculture, through the issuance of licenses; (2) limit all such businesses to the handling of the products for which the license was issued; (3) permit the examination of all records of the license businesses for any overt acts, with heavy penalties for evasion or violation, and with the burden of proof in the court of appeals on the licensee; (4) direct the appointment of receivers by the court to conduct the business "in the interests of the public"; and (5) allow the issuance of licenses in those fields to any "public, quasi-public or other corporation or coöperative association and any agency controlled or operated by any State." The bill was definitely termed one "to stimulate the production, sale and distribution of live stock and live stock products." Under those drastic propositions it was only natural that the packers should bring about some means of defense. One was brought definitely to Senator Kenyon's attention when he received the following telegram, dated July 21, 1919:

"Senator W. S. Kenyon,

"Senate Office Building, Washington, D. C.:

"Armour Co. representatives actively working this section among retail grocers influencing them write or telegraph Washington opposition to Kenyon bill (S. 2202) in Senate, introduced to prevent monopoly food products by Big Five Packers. If you are flooded with protests in their behalf you will know what pressure is being brought to bear by Big Five Packers. Just advised using same methods through the South. No doubt all over the country many retail grocers may be influenced. Communicate with you their behalf by smooth tongued trained representatives. One of Armour's representatives admitted all their salesmen were called into meeting. No doubt they will be instructed along this line as well as other distributors. Food products are beginning to feel pressure of control in canned goods. Rice, salmon and many other lines other than meats. Unless Kenyon bill is passed we believe it will practically be but one source of supply. Food commodities competition is the life of trade and will be obliterated. We only ask to be placed on a competitive basis and that special privileges enjoyed by the Big Five Packers in transportation be discontinued.

The Kenneweg Company Wholesale Grocers,
John G. Lynn, *President*."

Although the telegram might have been prejudiced, opponents of the Kenyon measure stated the cause of action as only a fight between the wholesale grocers and the packers, its contention was borne out by results. Literally, thousands of telegrams and letters began to flow into the Senate, many of them worded alike as though mimeographed.

William S. Kenyon spent an hour or so before the Senate briefly commenting on the propaganda methods of the packers and the wisdom of the senders. He produced a series of the documents and read them.

"Here is a telegram from a judge in Stamford. He signs it 'Judge.' I have always been suspicious of the legal ability of a man who signs his personal letters as judge, but that should receive great weight with you.

"'Hope you can use your efforts to defeat Kenyon-Kendrick bill now before U. S. Senate. We do not want such action in this glorious country.'"

Another:

"'I protest against Kendrick bill. If passed, it would be against best interests of my business. Hope to see it has fair consideration and finally killed.'

"Like the justice of the peace who took the case under advisement with the statement that he would decide for the plaintiff in three days."

One more:

"'Opposed to Kenyon bill. High cost of living reduced by competition. No reason to cut it off.'

"A man who can understand that the high cost of living has been reduced ought to have his head X-rayed, so that the picture may be given to the rest of the Nation to understand how a man can think that way."

A brief excerpt from the original statement, the above does not give more than the highlights of the situation. Telegram after telegram from widely separated sections of the country were read, all bearing identical phraseology. The attempt did not fool anyone. However, a concerted effort was made to throw doubt on the validity of the bill by certain members of the Senate who declared it was nothing more than a fight between the wholesale grocers and the packers. The thrust at his integrity, and that of his co-workers, could not be ignored by Senator Kenyon.

"I realize, and everybody might as well realize, that those who always place a halo in this Chamber and other places around the packers are going to make the reason why this bill now sought to regulate the packers should be defeated is that it is a fight between the wholesale grocers and the packers. If the wholesale grocers are doing this, let us get some way to remedy it. So far as the bills are concerned, introduced by the Senator from Wyoming and myself, the wholesale grocers of the country have had absolutely nothing to do with them, and you cannot camouflage this issue to the country by putting up that kind of a smoke screen."

Opposing senators were sincere in their belief that the bill would work more harm than good. Not the least complimentary of the remarks about it were those of Senator Bert M. Fernald of Maine. "It is un-American, and means a blow to American initiative and to American genius." In the light of recent legislation one can but imagine the words the Senator might have used, if called upon to comment today. However, the Farm Bloc was firmly organized and unflinching in its purpose to bring about that bit of legislation for the benefit of the farmer. The success of the opposition was so great in securing amendments that the bill was seriously injured in the opinion of Senator Kenyon. When the Kenyon-Anderson measure was finally passed and presented for signature it was a greatly weakened version of the original. The accounting measure was removed and the power of regulation placed largely in the hands of the Secretary of Agriculture instead of the commission Senator Kenyon desired. Nevertheless it was a move that would curtail in many respects the operation of packing combines in restraint of trade, and William Squire Kenyon's long fight had at least borne fruit.

Demands League of Nations Reservations

After the signing of the armistice, a great deal of the Senate's time had been spent in conjecture as to the terms of peace and the proposed league of nations. Although nothing was known authoritatively concerning the pact, debate waxed loud and long. When the terms of the treaty became known, Senator Kenyon began to take an active interest in it. The league was not particularly appealing to a man of his beliefs. His earlier statement concerning foreign alliances was more than lip service. He believed definitely that the United States should remain independent of all foreign entanglements. His survey of the league of nations pact brought to light four points that he believed needed amending before the peace treaty as a whole might be acceptable. A power in the Senate, he was no longer ignored when he stated his opinions. If suitable reservations were made: "a way out without the aid or consent of any nation on earth, a limitation of section 10" (the policing function), "a clear statement as to domestic problems," and an equalization of the voting power of the United States and the British Empire, he and his colleagues would consent to its acceptance. William S. Kenyon's speech on the subject was greeted by tremendous applause in the galleries and was as clear an indication of his ideals and character as any utterance he had ever made. In it he implored the opposing members of the Senate to "come out of the valley of stubbornness. There are the necessary votes here to ratify this treaty with substantial reservations. . . . The votes are here to defeat the whole treaty regardless of consequences if reservations are not adopted. Make no mistake about that." The presentation of his individual opinion was an epitome of William Squire Kenyon.

"When this treaty first came up I think 80 per cent of the people of my State were for the league of nations. Some of the most powerful papers of the Republican Party were strongly advocating it, and are now. I set forth largely the same objections to it in March when out home that I raise now. It drew upon my head considerable of a flood of denunciation, especially from those who had not read the constitution of the league. It has always seemed to me wise to wait for the sound, sober, second judgment of the people, and that second judgment is generally right. And while it may be today that a majority of the people of my State are in favor of this convenant of the league of nations exactly as it is, I know there are not as many in favor of it as there were two or three months ago. A great majority of them favor some league to carry out the terms of the Paris conference. However, I say deliberately and measuring my words that if every man, women and child in the State of Iowa was for this convenant as now proposed, without any reservations, that I would not support it. Possibly it would be my duty to resign, and if I felt that my State was practically unanimously for it I would not hesitate to resign. But I say very frankly here and now that no amount of threatening, no talk about votes or elections, no attempted coercion will sway my judgment in the matter.

"I have waited long and thought long and meditated much and my mind has reached a final conclusion that I would be a traitor to my convictions and that I would be doing an injury to the people of my State and my Nation to support this treaty with the proposed covenant of the league of nations as it now is. If my representation in this matter is not satisfactory to the people of my State, I will retire without any reluctance. There would be much more pleasure, anyway, in having a brick pile of your own than in being a target. I propose to live with myself and conscience for the balance of my life and to keep faith with it, and in doing so I shall vote for what seems to me best for the people of the whole United States and for the generations that are to come, regardless of what the sentiment in my State may be at this time; and if that is State treason make the most of it. I have confidence to believe that in years to come that people of my State will realize that a vote for the league in its present form, with no reservations safeguarding our country, would have been close to treason to my country."

The national action concerning the League of Nations is well-known, and the well founded comments of such men as Senator Kenyon had much to do with that action.

There came with the year 1921 a concerted effort to discredit Senator Kenyon and his Farm Bloc. The Farm Bloc was an indefinite organization of Senators, largely from the mid-western and northwestern states. William Squire Kenyon was the leader, and his principal aid was Senator Arthur Capper of Kansas. The Bloc had forced the Congress into a special session until its measures were acted upon. The Kenyon-Anderson bill was one such measure, and the Sheppard-Towner bill for the protection of maternity

and infancy, another. With the regular session following close on the heels of the special one the Farm Bloc and Senator Kenyon remained largely in power. The Fordney-McCumber Tariff was forced to conform to its will. The administrative powers under President Harding began to take sides in an effort to break the Bloc. Secretary of War John Wingate Weeks attacked the organization, while Secretary of Agriculture Henry Cantwell Wallace supported it. Secretary Wallace said in part, "that anyone should be disposed to regard such legislation as class legislation intended to or having the effect of benefiting one group at the expense of other groups, is surprising. It is time for the eastern industrial section to realize that it is the farmers who feed the entire Nation and supply the largest market for manufactured products." In the midst of all the turmoil and debate concerning "class legislation," Senator Kenyon was interested only in the welfare of his constituents and the interests of the country at large.

Once more, as on the occasion of his entrance to the body, he was engaged in fighting the battle for purity of elections. The election of Senator Truman Handy Newberry was under question and William S. Kenyon attacked the investigation with his customary zeal. It was a severe blow to his ideals of democratic government when a majority of the Senate upheld the presence of Senator Newberry as a member of the senior house of the national legislature.

Becomes a Federal Judge

The following executive message was read to the assembled Senate on January 31, 1922:

"To the Senate of the United States:

I nominate William S. Kenyon, of Iowa, to be United States circuit judge, eighth circuit, vice Walter I. Smith, deceased.

WARREN G. HARDING.

The White House,
Washington, January 31, 1922."

Although the usual procedure was to refer such appointments to a committee, the Senate rose and unanimously voted Senator Kenyon into that position. It was an exceptional compliment and a blow and a shock to the adherents of the Farm Bloc. Senator Pat (Byron Patton) Harrison of Mississippi rose to express the opinion of his colleagues.

"I am sure we were all delighted when the nomination of our colleague came to the Senate for appointment to this very high judicial position. I am quite sure no person in that district could be found possessed of more splendid qualities to make a rare and exceptional judge than Senator Kenyon. In this body he has been one of the very best

Senators who have represented any State in the last decade. Progressive at all times, he has not only stood for that character of legislation, but has been an outstanding figure and a leader for purity in elections and against corruption in all forms.

"When the vote on his confirmation was taken a few moments ago in open executive session of the Senate a rare compliment was paid him; and as I saw every Senator on the other side of the aisle rise in his place and vote to confirm Senator Kenyon as a judge of the circuit court of appeals I could not keep my thoughts from going back a few weeks, recalling that the same Senators who now vote to take him out of this body had by their votes only a few weeks ago retained in the Senate one who had won his seat through corrupt and inexcusable methods. Your vote today does you credit; your vote the other day discredits you. Certainly this nomination did not come to Senator Kenyon because he had stood as the President had stood and as the great rank and file of you Senators had stood, retaining Senator Newberry as a member of this body. No Senator in all that discussion fought the right of Senator Newberry to retain his seat harder than did the junior Senator from Iowa. He inveighed with force, logic, and eloquence against your procedure and predicted disaster in the coming election to those of you who defiled this body by voting to endorse such corruption and methods as had been employed in Michigan.

"Some reason other than his exceptional qualities and his position in the Newberry case moves his selection.

"Some weeks ago the Senator from New Hampshire (George Higgins Moses) made a speech in this Chamber. He criticized, maligned, and abused the so-called 'agricultural bloc,' and in the course of that speech referred to the agricultural group as the 'Ken-Cap-Clan' of the United States Senate; so I suppose by this nomination the President and those in this body who are so anxious to break up the agricultural bloc desired to take the 'Ken' out of the 'Ken-Cap-Clan.' Well, you have done it.

"Although the country will accept that and interpret that as the true motive that prompted this nomination, I am charitable enough to believe that the President considered also his judicial poise and the splendid legal qualities possessed by him. His long experience as a lawyer, his training here and elsewhere eminently qualifies him to make a most splendid judge; but away out in the Middle West, and through the agricultural sections of the country, many of the farmers whose eyes are now riveted on the Congress of the United States and whose attention was attracted to the agricultural conference here last week will wonder if it was not due to a desire upon the part of the President and his advisers to rid the Senate of the United States of the leader of the agricultural group. Those progressive and patriotic 'sons of toil' are not easily fooled. They can see the trail left behind, if not the serpent as it passes. It will need some explanation to remove that impression from their minds.

"I do not blame the Senator under the circumstances for wanting to leave the Senate. Here he has fought for purity of elections and to oust from this body one who had been indicted by a grand jury in Michigan and tried and convicted by a jury there with Republicans on the jury, and he appealed to his colleagues to stand with him for purity of elections, and when he made a great speech they left the Senate Chamber. His way is not their way. Republicanism under the present leadership in this body and elsewhere must be very obnoxious, distasteful, and unpleasant to him."

Later in the day Senator James A. Reed of Missouri rose to add to the comment on the departure of William S. Kenyon to a new field of endeavor.

"His selection for this position under the circumstances may be taken as nothing but a recognition of his sterling integrity, his independence of character, and his devotion to public duty. He has been recognized in this body as one man who always placed the public interest above party service. He has pursued an independent course during the 10 years he has sat in this chamber. I believe that it will be the unanimous verdict of his colleagues that at no time in his career has he varied from the straight line of duty as he saw it. I believe it will also be the unanimous verdict that with a rare devotion to principle and a rare and almost unexampled industry, he has labored to serve the State and the people of the State. I predict for him upon the bench a long and useful career. I am sure he will bring to the duties of the high office he assumes the same probity of character, the same independence of judgment, the same sentiment of love for humanity he has so often manifested upon the floor of this body. His separation from the senate is a distinct loss which will be felt upon both sides of the Chamber; his elevation to the bench will, in my judgment, be fully justified by the career he will follow."

This final upward step was not taken by William Squire Kenyon in any spirit of haste or disgust. While many interpretations were being made by those who could not know all the facts, the principal party involved, Senator Kenyon, issued this statement:

"The President has known since our service together in the Senate that political life did not appeal to me and that my ambition was to serve on the Federal bench. When a vacancy occurred last Fall in the Federal District judgeship in my State, some of my friends suggested my name to him and he indicated his willingness to appoint me. The legislative situation was such then that it seemed to me I could not accept. The situation is somewhat different now, as the West Virginia investigation is out of the way, likewise the Newberry case, and a large portion of the agricultural program has been put through.

"The question is presented to me again as to the Circuit Judgeship in the Eighth Circuit and the President, knowing my ambition and desire for service on the Federal bench,

has tendered me the appointment of Circuit Judge for that circuit, which I am pleased to accept and have so notified him. I am deeply appreciative of the act of the President in appointing me to this position."

A few days after the confirmation of the appointment the rumor began to circulate that it was unconstitutional. As the "New York Times" stated: "It is regarded as remarkable that neither the President, the appointee or the Senators who voted the confirmation realized he was not eligible." The question arose over that section of the Constitution which declares "that no Senator or Representative shall, during the time for which he was elected, be appointed to any civil office which has been created or its emoluments have been increased during such time." The salary of circuit judges had been increased $1,500 on February 25, 1919. It was the opinion of many legal minds that the obstacle so existed, for Senator Kenyon had been reëlected in 1918. With the propriety of his appointment in the balance William S. Kenyon wired Governor Nathan E. Kendall of Iowa:

"I will not resign my seat until the constitutional question raised has been settled."

Attorney General Harry Micajah Daugherty solved the puzzle after a careful examination of the facts. His opinion, stated in a letter to President Harding, was that "the emoluments of the office to which he (Senator Kenyon) has been appointed were not increased 'during the time for which he was elected,' at the time of his appointment. The facts were: the increase had been voted February 25, 1919, and the election of 1918 had been for a term beginning March 4, 1919. William S. Kenyon had been serving a new term of office when appointed in 1922. Senator Kenyon thereupon wired his resignation to the Governor of Iowa and presented a similar document to the Senate.

"United States Senate,
Washington, D. C., February 24, 1922.

To the Hon. Calvin Coolidge,
Vice-President of the United States and President of the Senate.

Sir: I hereby tender my resignation as a United States Senator from the State of Iowa for the term expiring March 3, 1925, to take effect immediately.

Respectfully submitted,
William S. Kenyon."

Governor Kendall was required, upon receipt of the resignation, to appoint a successor for the unexpired term. He chose for that honor Charles A. Rawson. Upon notification Mr. Rawson said, among other things: "I accept Governor Kendall's appoint-

ment with a keen appreciation of the responsibility it involves. Senator Kenyon and I have been intimate friends since boyhood, and I have watched with approval his course in the Senate. It will be my ambition to carry on his work, and to justify the honor which Governor Kendall has conferred upon me."

William Squire Kenyon had informed Mr. Rawson at the first opportunity of the honor that was to remove him from the Senate Chamber. He had also requested his life-long friend not to argue with his choice. Charles A. Rawson, however, deplored the action for, as he said, "I thought he could do more good as a Senator than as a judge." William S. Kenyon had earned advancement, and while the failure of his colleagues to equal the high level of his ideals may have irked him, it was in no spirit of disgust or resignation that he accepted his new office. High reward was his due and the appointment to the Federal bench was that reward. Moreover, the constant strain of effort, upon a man whose industry was proverbial, had brought him to a need of quieter pursuits. William Squire Kenyon did not do things half way. His life had not been one of excessive ease, nor had he profited financially while in office. The appeal of the new situation was too great to resist, and it may be stated with certainty that no imputations against his motives for so doing ever entered the minds of his farming constituents. His high code of honor and his great integrity of word and purpose were insurmountable barriers. On February 24, 1922, he officially ended his career as a statesman where, during ten years of devoted service to the citizens of the Nation, he had risen from comparative obscurity to a position of supreme importance.

Chapter Four

Statesman: 1911-1922

Lesser Interests

"The only legitimate end and object of all government is the greatest good of the greatest number of people."

—George Woodward Wickersham.

A departure from the chronological order of William Squire Kenyon's biography is taken at this point to present a few additional phases of his interesting career in the United States Senate. The great variety of Senator Kenyon's work makes the step advisable in any attempt at an accurate characterization. The classification of the chapter as "Lesser Interests" is purely an arbitrary one, and is not meant to minimize the importance of the work.

Not the least of William S. Kenyon's prodigious activity was the routine labor of his senatorial position. As a typical example: in 1919 he was a member of the following Standing Committees: on Agriculture and Forestry, Appropriations, Education and Labor (chairman), Expenditures in the Department of Labor, Industrial Expositions, Manufactures, the Pacific Islands and Porto Rico, the Philippines, and Privileges and Elections. It was his habit, moreover, to attend meetings of committees of which he was not a member, but whose work had a direct bearing on legislation he advocated. He had prepared at various times many "ordered printed" Senate documents including: Remedies for Hog Cholera, Conditions in the Virgin Islands, Minority Views on the River and Harbor Appropriation Bill, Compensation of Government Employees, Cost of Living in the District of Columbia, Investigating Strike in Steel Industries, Investigation of the Paint Creek Coal Fields of West Virginia, West Virginia Coal Fields, and Campaign Expenditures. Certain of the listed items shall be considered shortly. It is interesting to note, that one of the first documents Senator Kenyon had printed by Senate order was not one that he prepared himself. It was an address given before the Michigan State Bar Association in 1911 by Attorney General George Woodward Wickersham. The title was Recent Interpretations of the Sherman Act, and the introductory sentence heads this chapter as not only the sincere belief of the Attorney General, but that of William Squire Kenyon as well.

Attacks Waste of Public Funds

The reform measures of Senator Kenyon were many, among them being his attempts to stop the free issuance of seeds and the abuses of franking. The two were attacked simultaneously in 1913, but further attempts were made individually. Waste of money, particularly public funds, was peculiarly abhorrent to William S. Kenyon. Public office was to him a public trust in every sense. He said in part on February 27, 1913, concerning the free mailing of seeds, "of all the expenditures of public funds this has grown to be the most defenseless and the most nonsensical." In further development of the theme he stressed the uselessness of the seeds and the general interpretation of the method of procedure.

"The franking of seeds is but a part of the extravagance of the franking system. I remember, when I was a boy, of my father receiving a large envelope containing some seed packages with the name of a Representative in Congress in the corner. It occupied a very conspicuous place in our affections, and we felt quite delighted to think we were in such close contact with a distinguished Member of Congress. I have been disillusioned since. I asked the Secretary of Agriculture, through a resolution, to furnish the Senate the items of expense of purchasing and preparing for the mails the seeds which are distributed principally in congressional campaigns, and that report has just been printed.

"Last year in the purchasing of vegetable and flower seeds the government spent over $122,000, and for the packeting and mailing $101,000. For the last four years the Government has spent approximately a million dollars for vegetable and flower seeds, few of which, I think, have ever been known to grow."

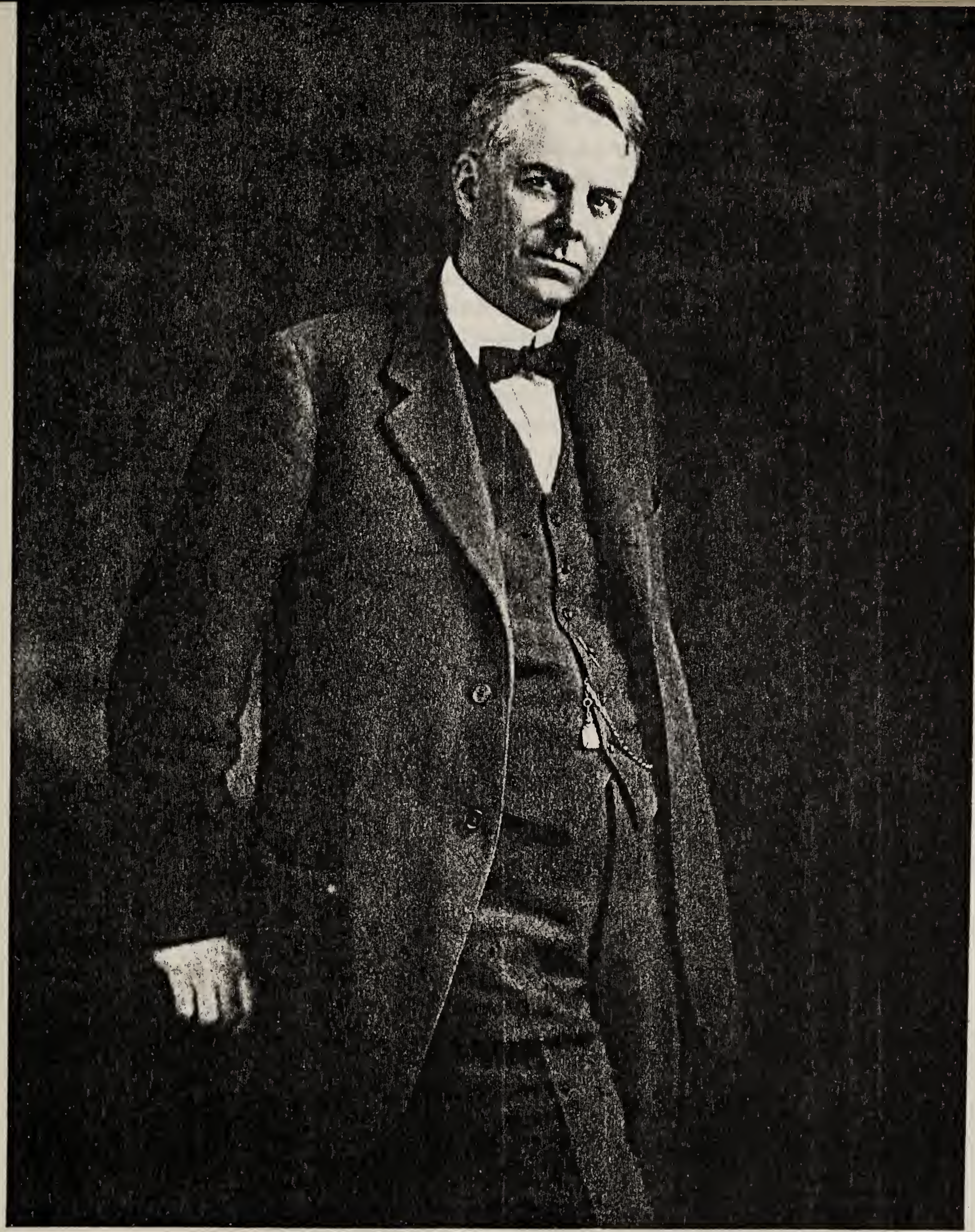
Senator Kenyon then quoted from a letter sent by a farmer in his state:

"'I wish you would send a package of seeds to Mr. ———.'

"The name need not be mentioned.

"'He is one of my enemies in this community. I can know of no way to punish him any more than to have him plant these seeds and try and get anything from them. My wife received some nasturtium seeds last year, planted them in the front yard, and we had quite a crop of cucumbers therefrom. Most of the neighbors here, when they get packages of seeds, laugh about it and wonder if the Congressman thinks that will get him another vote. It is time the Government went out of this kind of business.'"

Senator Kenyon's purpose was to have seeds sent only to those who requested them except certain valuable ones that might be sent as part of the national agricultural policy. The bill could not be passed that year in the form he desired, and he promised to renew the fight. He maintained his stand until the conclusion of his Senate career. He attacked



WILLIAM S. KENYON - DURING HIS SERVICE IN THE SENATE

the franking aspect of the situation by the introduction of a bill to substitute stamps for the signatures. The bill was not passed, and the franking burden still remains. The virtue of the measure was presented in a newspaper editorial of the time.

"In order to appreciate the possibilities of this reform, so easily and simply accomplished, it is necessary to remember that franking is said to cost the government $20,000,000, of which $3,000,000 is attributed to purely or impurely political uses. There was reason enough for Senator Kenyon to introduce his bill that franking should be done by stamps, instead of by facsimile signatures and that account should be kept of the stamps issued to those entitled to the privilege. It was not proposed that the stamps should be limited, but merely that the accounts should be kept. It would have sufficed. No Congressman would have had the assurance to ask for stamps enough for his washing and furniture and political speeches."

Waste and extravagance in other fields of congressional activity were criticized. Appropriations for projects of questionable value were always attacked by Senator Kenyon. That will be remembered if one recalls the letter concerning the circular post office for preparedness purposes. The bills for river and harbor improvements were often padded, in his estimation, for reëlection purposes. A bill of such character was being considered in the fall of 1913, with Senator Kenyon leading an opposition favoring reductions. Senator Stone of Missouri, a proponent of the bill, grew irate at the criticism and uttered a few statements concerning filibuster tactics. Senator Kenyon seized the opportunity to defend his policy and gave Senator Stone a stinging rebuke. The speech was a gem of polite sarcasm. Quoting from the Congressional Record of 1908, he told of a filibuster conducted by Senator Stone against the Vreeland-Aldrich Monetary Bill. The Senator had read from books, newspapers and magazines and discussed the monetary policies of the Argentine Republic, Australia, New Zealand and China. To continue with the words of William Squire Kenyon:

"The Senator from Missouri, who has administered this cutting, cutting lecture to us this afternoon, that almost stops our blood, on filibustering—oh, the farce of it!—he brought in Japan. Now, if I wanted to filibuster here I would read what the Senator said about Japan. There is not a smarter man in the world than the Senator from Missouri, nor a more likable man; and when anybody talks about filibustering he has a right to stand up and say, 'I am the original man who stood at the bridge. No white flag.'

"Next he brought in Japan—two columns of that in fine print. Then, when there seemed to be a little irritability, he said:

"'I am endeavoring now to put some matter into the record for the use of the Senate itself a little later on. Presently I will take up the particular features of the bill.'

"He had not reached the bill, but he had traveled from China and Japan and all around the world. Filibuster! Why, bless your dear old soul, you are the king filibuster of the United States! Missouri ought to be proud of you.

"Articles were read denouncing the bill as a Wall Street proposition. Then, after getting around to China and Japan on this filibuster, the distinguished Senator went to Persia.

"Think of this Senate, anxious to pass this bill, with but little knowledge about Persia—how much better a position they were in when they were enlightened by the Senator from Missouri about Persia!

"There are some columns of that; and then, on the next page, there is something that has not any head to it. Ah! in this filibuster we come next from Persia to Peru—a little Peruna! So we are enlightened as to the system of Peru. 'Show us, show us'—the motto of the Senator's State.

"I am not going to pursue that further.

"The Senator is wrong in some things, as he seldom is. We had not tried to destroy this bill. . . . We want every needed project carried out; but we have a right to protest here, without any egotism about it, against the use of public money in some of the streams and creeks and harbors provided for in this bill."

The wastefulness and extravagance of federal appropriations caused him to earnestly advocate a budget system. The method of control was refused, and William S. Kenyon denounced the Senate at large for the result.

"The result of this war will be worth all its costs but it is folly in national life as in private life to waste, and no one can deny there is tremendous waste in the way government finances are handled.

"I speak in no spirit of criticism of the administration. They are not to blame because some different system has not been established. The blame is squarely on Congress. It cannot shift or deny responsibility.

"The whole thing is a financial farce. There is no financial policy. Our financial methods are no better than the methods used in running a peanut stand on the corner. We appropriate money as if there were no end to national resources. In time, the steady pressure of the people, who must pay the cost of Government, will force the American Congress to change its present system."

Americanization Bill

Something has been said about the general intelligence of the nation as discovered during the course of the World War. The test results of the army were bitter medicine.

To a man of Senator Kenyon's intellectual standards, coming from a state with a sustained record of educational supremacy, that was particularly true. Numerous educational and Americanization bills were introduced in the Senate, among them being one he sponsored, combining both features. The need for such action was great, and the public support for such a measure correspondingly strong. Of all the measures, Senator Kenyon's was the most practical and seemed destined to pass. The Secretary of the Interior wrote to William S. Kenyon on January 14, 1920, showing how strongly the administration supported the Kenyon bill, which was later put into force for a tentative one-year period. The bill had, up until that time, applied only to aliens, but after the receipt of the letter was amended to include all citizens in need of the training.

"My Dear Senator: I am glad to know that there is so fair a promise for your Americanization bill at this session. There is, I believe, more general solicitude for such a measure than for any other pending piece of legislation. We are receiving from 100 to 200 letters a day touching all phases of this matter, and have not even the help to answer these letters. The men whom we had in this work have gone to other employment, drifted away unwillingly, after sacrificing much to carry on this work, and whether we can ever again get men of equal devotion and capacity, is a question.

"The Nation is conscience stricken—that is the plain meaning of the letters and editorials which I get. We have assumed that with our great school systems and our far-reaching newspaper and magazine press everyone could read, and that by some process of absorption all become indoctrinated with the ideas which are fundamental in our national life. Teachers and social workers and business men have for years shouted facts at us to prove that we had millions of children who could not read, millions of men and women who had no means of access to the thought and impulse of our country, and who were poor workers and poorer citizens because of their ignorance, a menace to themselves and to their neighbors. But to these facts we were deaf. The figures and studies made by the Bureau of Education would not be listened to. Census figures were denied. It was not until the draft came that we were made to listen. And then there was revealed a picture of illiterate helplessness which has made us ashamed of our boastings and our lethargic indifference.

"If democracy is a thing worth while fighting for across the sea, it is surely worth while fighting for in America. And I am seriously of the view that the policy of disregard which has obtained as to the education of those who come to us from abroad and of those who are born here is one that threatens the very institutions of our country. Every ignorant brain is a nesting place for the germs of malevolent discontent. The ears of all are ever open to those who tell them of their wrongs. And if they have no way of knowing what rights and what opportunities they have in democracy, why should

we be surprised if they believe what they are told and worship the god of force as their saviour? There can be no danger to a democracy excepting the danger of stupidity, and there can be no growth in a democracy excepting through the spread of intelligence. The strength of a nation is not in the number of its people but in their knowledge. It is idle, therefore, to say to a people, 'This is the best of all lands, wherein men have their largest chance and may realize every rational hope,' if they have no way of knowing what other lands are like and have no standards by which to measure their own fortunes or their own delinquencies.

"The problem challenges our fears, but there is a still nobler challenge. Our duty to those who are of us and our pride in the value of the American as a man call on us imperiously to give those who have been unfortunate an opportunity to grow; they must have a fairer chance. The first step is to give them the use of our language. The second step is to give them a knowledge of our institutions, the experiences out of which they have grown, and the benefits they have been to us and may continue to be if wisely used. This is the groundwork of Americanization. And afterwards will come real loyalty, which never can be compelled but must be won.

"Wishing your early success, believe me,

Cordially yours,

FRANKLIN K. LANE."

Interest in Maternity and Infancy Protection

Other characteristic measures that followed the war were concerned with the rehabilitation of wounded soldiers—that is, vocational rehabilitation. Senator Kenyon was a leading advocate of that form of legislation. More intensely interesting to him, however, was the bill he supported for the protection of maternity and infancy. The Shepard-Towner Bill, as it was known in the Senate, was one of the measures put through in the extended session of 1921 by the Farm Bloc. The action, corresponding in purpose to the Child Labor Law that William Squire Kenyon had introduced, was intended, primarily to foster a better citizenry in a physical sense. It was called idealistic and impractical by many politicians, which called forth a rebuke from Senator Kenyon. The gist of the attack was that the bill invaded states rights.

"We appropriate for hog cholera. It seems to be a matter of concern to the Government to save the lives of the hogs and the pigs of the country. We appropriate money to eradicate the boll weevil and the pink bollworm and the Japanese boll weevil and the Chinese boll weevil and every other kind of a boll weevil; we appropriate funds to kill off the potato weevil and the potato bug; we appropriate money to destroy coyotes, to exterminate ground squirrels and Japanese beetles, and to send garden seeds all over the

country. All that seems to be consistent with the purposes of the Federal Government; but when it comes to doing anything for the little babies of the country, gentlemen hold up their hands in holy horror and say that it is a waste of public money, an invasion of states rights, and so forth.

"It is just as much an invasion of states rights to appropriate for hog cholera and the boll weevil. Why do not the States take care of those matters?

* * * * * * * * * * *

"I appreciate the argument as to the necessity for economy about which we will hear in connection with this bill. When the Columbian Treaty was pending before the Senate I suggested to the Senator from Idaho when he was complaining about hearing nothing of economy that he would hear plenty about economy when we came to this bill. He will. It will be claimed that we cannot afford to spend the money for this purpose. I have tried to be consistent on the question of economy, but I cannot quite understand how gentlemen who can vote $25,000,000 to a gang of bandits down in Columbia can find fault with an appropriation of a million dollars a year to help save the babies and the mothers of the country; nor can I quite comprehend how gentlemen who can vote $500,000,000 in a naval appropriation bill can raise the cry of economy in connection with an effort to help to the extent of $1,480,000 a year the babies of this country."

The bill was based on a theory of coöperation with the various states, and the execution of its provisions was to be made by the Children's Bureau of the Department of Labor. Appropriations for the care of maternity and infancy were authorized, but not made absolute by the measure.

Propose Tribunal for Labor Disputes

The aftermath of the World War in the United States was strongly marked by labor disputes. As chairman of the Committee on Education and Labor, William Squire Kenyon conducted an investigation into the great steel strike of 1919. His report was complete and presented a picture of conditions that many members of the Senate considered false. Further investigation and questioning of various members of the committee sustained Senator Kenyon's views. He said in part "that behind this strike there is massed a considerable element of I. W. W.'s, anarchists, revolutionists, and Russian soviets, and that some radical men not in harmony with the conservative elements of the American Federation of Labor are attempting to use the strike as a means of elevating themselves to power within the ranks of organized labor." Among the recommendations was an observation concerning the eight hour day.

"The eight hour day is involved in the solution of this question. These non-English speaking aliens must be Americanized and must learn our language, so the question of a reasonable working day is involved in the question of Americanization. Men cannot work ten and twelve hours per day and attend classes at night school. It is the general consensus of opinion of the best economic writers and thinkers that the establishment of eight hour day systems does not diminish production. Nor do we think the claim made that an eight hour day is impossible because the workmen cannot be secured for three shifts is tenable. An eight hour day with a living wage that will enable men to support their families and bring up their children according to the standard of American life ought to be a cardinal point of our industrial policy and the sooner the principle is recognized the better it will be for the entire country."

The greater remedy for the strike situation was to be the organization and maintenance of competent tribunals before which all disputes might be brought. With that suggestion was coupled the following observations:

"Why cannot capital and labor coöperate and establish between themselves the doctrine of the square deal; cease to be suspicious of one another, join together and act together for the good of each other and for the well being of the public at large?"

Strikes in the coal fields of West Virginia during 1921 once more drew Senator Kenyon into the strife between capital and labor. His personal conclusions contained the statement "there must be due regard on both sides for the conflicting rights of the others. Men have the right to peaceably organize in trade unions and to bargain collectively through their chosen representatives. The exercise of their right to organize does not include coercive measures of any kind to induce persons to join their unions, nor to induce employers to bargain or deal therewith; nor to intimidate or harass non-union men associated with them in working conditions."

Would Tax Profiteers for Soldiers' Bonus

The bonus for soldiers, a problem that remains today, occupied a portion of Senator Kenyon's interests. He attacked the problem in a characteristic fashion. The senator was in favor of the bonus in a qualified sense. He said in part:

"We have established the principle of a bonus or adjusted compensation.

"There is not a very strong economic argument for not being willing to vote something for the soldiers, particularly when we consider all the other extravagancies we have indulged in."

The actual measure he endorsed was the following resolution, an attack on war profiteers:

"Whereas during the late war a large number of shameless and conscienceless profiteers took advantage of the American Government and of the American people and plundered and robbed them in a frightful and shocking manner; and

"Whereas by such plundering and robbery more than 23,000 new millionaires were created in America, an average of one new American millionaire for every four American boys that lost their lives in the service of their country; and

"Whereas said profiteers, by their wicked and disloyal methods, brought about a large part of the Nation's debt, which is now such a burden upon the American people, and the payment for which the American people, including the ex-service men, are now subjected to crushing taxation; and

"Whereas said profiteers are now living in unparalleled luxury, while great numbers of the ex-service men are in actual want and distress; and

"Whereas we paid the ex-service men, who offered their lives for country, the paltry sum of a dollar a day; and

"Whereas we owe the ex-service men a solemn debt, one that the conscience and patriotism of the American people will not permit to go unpaid; and

"Whereas the Secretary of the Treasury has stated that there is now no available means from which said debt can be paid; and

"Whereas said profiteers should be held up to the everlasting scorn of the American people and should be compelled to pay said debt from their stolen wealth. Now, therefore, be it

"RESOLVED, That a select committee of seven members of the House be appointed by the Speaker of the House to investigate and procure all facts relating to said war profiteers, to secure their names, to have said names published in the Congressional Record, and to devise a plan whereby a bonus or adjusted compensation can be paid to the ex-service men by a levy of a special tax for that purpose upon said profiteers.

"That the Secretary of the Treasury be, and he hereby is, directed to furnish to said committee the names of all individuals, firms, and corporations called for by said committee, together with the reported incomes of said individuals, firms, and corporations since the late war began, as shown by the records in the Treasury Department.

"That the committee so appointed may conduct such investigation by sub-committee or otherwise; that said committee or sub-committee may select its own chairman, may hold sessions during the recess of the House, may employ whatever assistance, either clerical or legal, it may deem necessary to aid in conducting such investigation, may administer oaths, may summon and compel the attendance of witnesses and the produc-

tion of papers and documents, may employ a stenographer or stenographers to report the same, and have the reports of said hearings printed for use.

"That any and all expense in connection with such inquiry shall be paid out of the contingent fund of the House upon vouchers to be approved by the chairman of the committee.

"That said committee shall make full report to the House at the earliest possible date."

William Squire Kenyon, while basically a conservative, was not frightened by what were considered "radical" ideas on the control of industry and enterprise. In the light of present government policy the following statement is appropriate. The statement was made by the Senator in answer to a remark made by Senator Theodore Elijah Burton of Ohio.

"I think we are reaching the parting of the ways as to whether we are to stand for competition as a part of our national industrial policy or whether we are to accept combinations as inevitable and place them strictly under the regulation of the Government. I am in favor of the old fashioned competition if we can get it."

Senator Kenyon was a many sided individual, definitely sincere and always logical. The brief analysis of his career in the United States Senate, that has been given, shows the great versatility, courage and wit of the man. In concluding this slight digression from the definite order of his biography, the following published item is presented. The article appeared in a strictly non-partisan journal once published in Washington, and known as the *Searchlight on Congress*. The paper was absolutely impervious to influence of any kind, and gave as fair an estimate of the Senator at the height of his legislative career as could be found anywhere. The editorial appeared in the issue of March, 1921:

"Senator Kenyon was a busy man during the Sixty-sixth Congress, particularly in the last session. Moreover, his work was unusually courageous and constructive. He was chairman of the Committee on Education and Labor, out of which came several important measures for which he fought with persistent ability, notably the bill for vocational rehabilitation of ex-soldiers.

"He bore the brunt of the long investigation into the campaign expenditures of presidential candidates.

"He participated prominently in the coal inquiry.

"The interests of agriculture were always emphasized in his legislative work.

"It was only typical of his characteristic attitude when he opposed the free-seeds graft after all others had given up the struggle.

"But standing out above all else is his battle with the packers, in which he unselfishly yielded to others the chief credit for legislation on that subject.

"Kenyon becomes more independent, uncompromising, and active the longer he remains in the senate."

Chapter Five

Federal Jurist: 1922-1933

"I, William S. Kenyon, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as Judge Eighth Judicial Circuit, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So Help Me God."

William Squire Kenyon addressed the assembled students of the University of Missouri, at Columbia, on the evening of February 28, 1922. He was not a member of the Federal bench at the time. His presentation was a plea for the return to "old fashioned Americanism." He commented briefly on the status of the Farm Bloc, saying, "there are other blocs in congress, but they never excited the opposition that the agricultural bloc did." The public press misinterpreted a section of the address in which he made a remark on the purity of election to office. The press framed the report in words that could be construed only as a bitter attack on Senator Newberry. The Senate deplored the fact that a holder of judicial office should violate propriety to that extent. Judge Kenyon sent a wire to inform the Senate that he had not taken office at the time of the questioned remark and, moreover, the words were misquoted, which killed the attack at its inception. Judge Kenyon was forced at numerous times throughout his career to set aright erroneous implications of his utterances and to deny imaginary statements foisted upon him by men who had been misinformed or were totally lacking in authority. Such is the fate of all men of public prominence.

On March 1, 1922, William Squire Kenyon was inducted into his new office with the above oath. The ceremony took place at the Federal building in St. Louis, Missouri, the principal seat of the Eighth Circuit Court of Appeals. The newly admitted Circuit Judge at once assumed his place on the bench to pursue the duties ascribed him by law. The Circuit Court of Appeals had been created by an act of Congress approximately twenty-one

years previous to the occasion. With the words, "there is hereby created in each circuit a circuit court of appeals which shall consist of three judges, of whom two shall constitute a quorum, and which shall be a court of record with appellate jurisdiction," the new adjunct to the United States judicial system came into being on March 3, 1891. The Federal legislature had amended the original act before Judge Kenyon's admittance, and the Eighth Circuit had six circuit judges, instead of the original three. The Circuit Court of Appeals was formed to relieve the Supreme Court of its seemingly endless docket. Ranking second in power to the Supreme Court, the Circuit Court of Appeals had neither strictly original nor final jurisdiction. It was concerned with all cases other than those given directly by law to the higher body. The circuits themselves were closely bound to the superior court. Heading the list of judges in each division was an assigned member of the Supreme Court bench, who was known in that particular capacity as a Circuit Justice. Below the chief figure ranked the Circuit Judges according to seniority and following them the various District Judges. During Judge Kenyon's years of service the Circuit Justice of the Eighth Circuit Court of Appeals was the Honorable Willis Van Devanter. The Eighth Circuit had jurisdiction in a greater number of States than any of the others; under its powers it reviewed cases and decisions in the states of Utah, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, and Arkansas. As previously mentioned, the principal seat of that circuit was at St. Louis, Missouri, but it had the power to select other places of assembly. By subsequent Congressional acts, the Court of Appeals of the Eighth Circuit was expected to hold session also in Denver, Colorado and Cheyenne, Wyoming, among others. Members of the circuit sat at some principal city in many of the states comprising the circuit. The burden of duty was great but not appallingly so to a man of Judge Kenyon's vigorous nature. It would be unthinkable to attempt to mention one-quarter of the cases that William S. Kenyon heard, delivered opinions upon, or concurred in decisions upon. It will be sufficient to briefly record a few, hoping to give a general impression of them all and to indicate the quality of the mind focused upon those problems.

The conditions of existence throughout the states of the Eighth Circuit were mirrored in the causes of legal action brought before Judge Kenyon. Homesteads were numerous, Indians were still a prominent feature of western life and the oil industry was outstanding along with agriculture and stock breeding. The United States V. Medland was a homestead case concerning the rights of an entryman. Fraud was the basis of the action, and Judge Kenyon admitted that upon the testimony given and upon a review of the record of the lower court, suspicion as to fraud was present. However, the evidence must go beyond a reasonable doubt in cases of fraud. As he said: "The evidence to contest his right does not go beyond the realm of suspicion; titles cannot be set aside on

mere suspicion," therefore, "no fraud has been shown." It does not require an overly active imagination to realize that throughout the west at that time people were attempting to acquire homesteads without undergoing the required term of residence. To dispel any illusion that the west was a totally primitive area the contest of the Citizens' Bank and Trust Company *et al.* V. Folsom will do as well as any. While a doubtful manner of presenting the civilized aspect of the states in question, it was as typical of the eastern coast states as was the opinion that only cowboys and Indians existed beyond the Mississippi. A delicate interpretation of the law was involved, and the handling of the situation attests to the sureness and adaptiveness of Judge Kenyon's legal mind. The Bank and Trust Company was the holder of a mortgage on the property of Mr. Jones, who was bankrupt. Mr. Folsom was appointed trustee of the bankrupt's assets for liquidation. Without the knowledge of Mr. Folsom, certain officials of the bank induced Mr. Jones to sell his mortgaged property to satisfy that mortgage. Mr. Folsom upon learning the facts brought an action to recover the funds in the possession of the bank. The trial court ordered the money to be turned over and the bank appealed to the Circuit Court of Appeals. Judge Kenyon gave his opinion after a retrial in that court. The Citizens' Bank and Trust Company *et al.* were termed in the decision, "petitioners."

"The liens of the petitioners created by their chattel mortgages have been extinguished. This is admitted by counsel for the petitioners. For the court to grant the relief now asked would be in force and effect to revive the liens and give to the petitioners the same rights they would have had, if the liens had not been extinguished.

"The petitioners also complain of the findings of the trial court in holding that the sale under the mortgage was absolutely void, and notwithstanding this that the trustee was entitled to the proceeds. Of course, the trustee could have followed and recovered the property. As long as the property was sold for full value, however, the same result would be accomplished by the trustee having the money turned over to him and holding the same as a trust fund. There is, of course, an apparent anomaly in holding the sale absolutely void and yet retaining the money. However, we think the petitioners are in no position to raise any such question. They stand in the position, under the findings of the trial court, as persons who wrongfully assisted in the sale of property in the custody of the court and then proceeded to convert the proceeds to their own use. Instead of raising any question as to their present status, they should rest content and find some solace in the fact that no contempt proceedings were instituted against them for their interference with the bankruptcy court."

In the midst of his judicial duties, William S. Kenyon remained cognizant of political activities in Iowa. Mr. Rawson was not running for election, and Smith W. Brookhart received the Republican nomination for Senator at the June primaries. Judge Kenyon

implied his support of Mr. Brookhart's policies and campaign in a letter that was made public. Warning the candidate of an attempt to "end the primary system," he said also:

"Your nomination certainly shook the old crowd to their foundations. I am more than ever pleased now that I have resigned from the Senate, as it gave a chance for the people to express themselves and they certainly have done so. My judgment is you are going to have the largest majority any man ever received in this State."

Declines Cabinet Post and Presidential Candidacy

William S. Kenyon often repeated his desire to remain on the bench, but many friends and admirers saw in him a potential candidate for President. Representative William R. Blake of the Iowa State Legislature was one of those. He introduced the following resolution in the assembled state house on February 7, 1923:

"Be it resolved by the house, the senate concurring, that

"WHEREAS, pursuant to the provisions of the constitution of the United States of America, a presidential election will be held in the year 1924, and

"WHEREAS, the vast area of our nation west of the Mississippi river has never had a president of this great republic, and

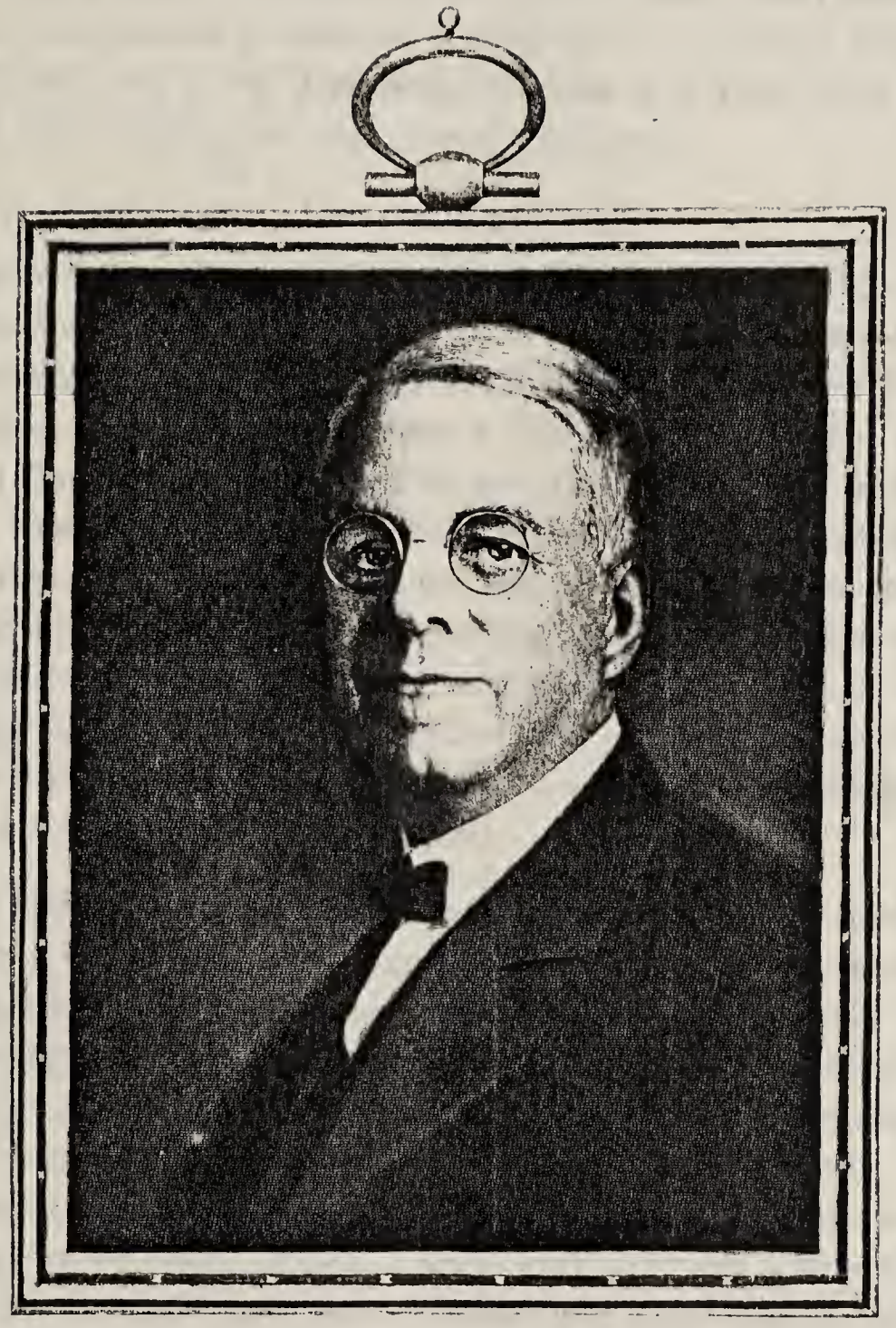
"WHEREAS, the popular sentiment of the times demands that a man of strong progressive principles and beliefs and one thoroughly acquainted with the problems of the agricultural industry of the nation be the nominee of the republican party, and

"WHEREAS, there is within the borders of the state of Iowa a citizen who is preeminently qualified for the high position and grave responsibilities of chief executive of this nation, now, therefore, be it

"*Resolved* by the house, the senate concurring, that W. S. Kenyon be requested to permit his friends to place his name before the people as a candidate for the republican nomination for president, and be it further

"*Resolved,* that the Iowa delegation to the republican national convention be notified that this general assembly would approve of its giving its solid support to W. S. Kenyon as the presidential nominee."

The resolution was considered inappropriate, and even prejudicial, by a majority of Senator Kenyon's adherents. They were at a loss as to how to circumvent the sincere but ill-timed effort to bring William Squire Kenyon into the presidential field. The principle purpose of the resolution was not startling to many for, among others, Senator Brookhart had said that the Republican nominee should be one ". . . . who will fight for the common people against Wall Street. Some one like Judge Kenyon." William S. Kenyon solved the problem by a telegram to Representative Blake:



Wm J Kenyon

"I have just learned of your resolution. I earnestly request you to withdraw it. I am absolutely and irrevocably out of politics."

On February 9, 1923, the representative did as requested. Judge Kenyon, nevertheless, remained a "dark horse" candidate in the eyes of many progressive Republicans. In spite of his often expressed purpose of staying out of the active political field, the rumors persisted until only a few days before Christmas in 1923 when Judge Kenyon expressed himself with a finality that was generally accepted.

"All I want is to be let alone. I am out of politics."

William Squire Kenyon was not, however, "to be let alone." There were many investigations into the supposed actions of some of the cabinet members during the year 1924. Talk concerning the Teapot Dome scandal was rife; a problem that Judge Kenyon was to consider in his judicial capacity a few years later. The resignation of Attorney General Daugherty was believed imminent and when in the middle of March, 1924, William S. Kenyon was summoned to the White House by President Calvin Coolidge for an interview, it was conceded that the Judge was to be offered the post. However, the Secretaryship of the Navy was the position tendered him. The current investigations into that office were believed to be responsible for the selection of an experienced legal mind. Judge Kenyon was uncommunicative after a preliminary discussion with the President, and it was not until the second day of his arrival in Washington, and after his second interview, that he issued his statement.

"A man in a judicial position acquires the habit of looking at all sides of a question before arriving at a conclusion. I am appreciative of the honor conferred and confidence shown in tending me the position of Secretary of the Navy. It is difficult not to respond to a supposed call to duty from the President of the United States, especially a President of the type of Calvin Coolidge. I have not considered my personal preferences in the matter, as I would be willing to make any sacrifice for public service.

"I can not, however, escape the conclusion that I do not possess the essential qualifications or training for the office. Hence, it seems very clear that I should go no further in its consideration. It would have been a pleasure and a privilege to serve with President Coolidge, whom I esteem as one of the finest representatives of our real American life, and one imbued in public life with the same high ideals of honesty and clean government as was Abraham Lincoln."

The impression still existed, after that public announcement, that Judge Kenyon was to be the successor to Attorney General Daugherty. No support for that belief ever came from the Judge himself.

The political interest of the nation was focused upon a national party convention, in which he was the subject of considerable conjecture. The Republican National Convention, at Cleveland, Ohio, was in progress during the second week of June, 1924. Preceding the first regular assembly of the delegates, William Squire Kenyon was conceded to lead all the possible candidates for the Vice Presidency. Judge Kenyon was too busy and perhaps too disinterested in the prospect to evince any concern. During the first few days of the session it was believed that President Coolidge favored Judge Kenyon, although the President made no such statement. At a caucus, a vote of thirteen western states was recorded in the Judge's favor. Due to his lack of expressed concern, the boom gradually died, although the Iowa delegation fought bitterly to maintain it. General Charles Gates Dawes was the successful candidate, but there was no regret on the part of Judge Kenyon himself. Although he would never have ignored a clear call to service, he wished to remain out of active politics, and his desire was fulfilled. Except for a slight boom again in 1927, which he never supported, William Squire Kenyon was not again considered from an active political standpoint. His influence within the state of Iowa and throughout the west was enormous, and the various candidates in the 1924 election tried to gain his support. He had occasion to set aright many alleged public statements of such support during the fall of that year. The law was his supreme interest and although, as he told his close friend Charles A. Rawson, "he felt the restraint," he did not wish to give up his judicial position.

William Squire Kenyon had returned to his judicial duties after his journey to Washington, D. C., absolutely irresponsive to political appeals. The case of Konecky V. Jewish Press *et al.,* among others, was undergoing his concentrated scrutiny during the course of the convention. The cause of action was of particular interest, for it concerned an alleged violation of the existing interstate commerce regulations in relation to trust activities. With his experience as a "trust buster" it could have been expected that he would be in sympathy with the appeal of Mr. Konecky. The evidence alienated whatever bias Judge Kenyon might have had, if he had been possessed of a mind that would permit a personal bias to exert influence. Judge Kenyon's decision proved the non-existence of any bias. The facts of the cause at law were presented in the decision.

"If the acts set forth in the petitions are sufficient to show a conspiracy, it would be one that, only in the most remote degree and incidentally, could affect interstate commerce. It would be rather far fetched to claim that because the plaintiff was blackballed in a Jewish organization, or his subscribers boycotted, or attempts made to have him discharged from employment, or to prevent him going as a delegate to some welfare association, or that notice was served upon him to vacate premises, or that he was pursued by detectives, it was sufficient to show a conspiracy from which an intention could be

inferred of an attempt to monopolize any part of trade or commerce among the several states. It would be a perversion of the Sherman Anti-Trust Act to hold that this petition states a substantial cause of action thereunder. Such act was enacted for a beneficial purpose and in response to the demands of an economic situation. It was to prevent the growing tendency on the part of great accumulations of property and wealth to exercise a monopolistic control of the necessities of life. The act has been weakened somewhat by judicial decision. To hold that the petition in this case states a cause of action to recovery of treble damages would further weaken it by making it ridiculous."

Any attempt to increase the possibility of damages by too elastic interpretations of federal statutes and regulations was peculiarly abhorrent to a person of Judge Kenyon's standards of thought and action. The plaintiff had a cause of action in a state court on the basis of alleged persecution, but no stretching of points could bring it within the bounds of any act to control interstate commerce.

Orders Restoration in Teapot Dome Fraud

The furor over the Teapot Dome scandal had brought a legal action into the federal courts. The case itself was, and still is, well-known to the majority of American citizens. Known to the courts as United States V. Mammoth Oil Company, the details necessary to recall it more fully were presented in the opinion given by William Squire Kenyon. The outstanding decision of his judicial career, it definitely showed his courage, his clearness of legal vision, his grasp of the law, and his high code of ethics. Thoughtfully and carefully prepared during his vacation in Maine, the decision was indicative of a high efficiency of intellect, and later was sustained by the Supreme Court.

"This suit is one in equity brought by the United States in the District Court of the United States for the District of Wyoming, to secure the cancellation of a certain lease of date April 7, 1922, made by the United States with the Mammoth Oil Company, one of the appellees, for the development and exploitation of the oil and gas within the naval petroleum reserve No. 3, in Nationa County, Wyoming, embracing approximately 9,000 acres, commonly known as Teapot Dome; also to secure the cancellation of the contract supplemental to said lease signed February 9, 1923, between the same parties, on the ground (a) that the lease and supplemental agreement were fraudulently secured as a result of a conspiracy between Albert B. Fall, the then Secretary of the Interior, and Harry F. Sinclair, organizer of, and owner of all the capital stock of the Mammoth Oil Company, who negotiated the lease on behalf of said company; and (b) that the lease and supplemental agreement were without authority of law and contrary thereto.

". . . . The trial court held against the contentions of the United States, and decided that the lease and supplemental agreement were not procured by fraud, that there was no conspiracy between Fall and Sinclair to defraud the United States or otherwise, and that both the lease and agreement were authorized by a special act of Congress, which took the matter out of the operation of general laws.

". . . . We are in accord with the conclusion reached by the trial court, that the authority granted by the Act of June 4, 1920, is sufficient to authorize the lease and contract in question. . . .

* * * * * * * * * * *

"The silence and evasions in this suit suggest many pertinent inquiries. Why should Osler refuse to disclose the connection, if any, of Sinclair with this company? Why is silence the answer of a former cabinet official to the charge of corruption? Why is silence the only reply of Sinclair, a man of large business affairs, to the charge of bribing an official of his government? Why is the plea of self-incrimination—one not resorted to by honest men—the refuge of Fall's son-in-law, Everhart? It would seem that men of standing in the business world when accused of being bribers, would be quick to resent the charge, and eager to furnish all information possible that might remove such stain upon their reputations. It is incredible that a former cabinet official, in the position of trustee of the public lands for the people of the United States, when accused of bribery and corruption in connection with his official duty in matters where great public interests are concerned, would not be quick to refute the same. Men with honest motives and purposes do not remain silent when their honor is assailed. It is amazing that officers of great oil companies, such as Blackmer and O'Neil, would flee their country and refuse to testify in a suit brought by their own government to unearth an alleged fraud practiced on it by a high official. While Secretary Fall is not technically a party to this suit, he was the agent for the government in the transactions provocative of this case, and his former principal is a party. Sinclair is in fact a party because the Mammoth Oil Company is his creation and agent. Its acts are his acts.

"Is a court compelled to close its eyes to these circumstances? Is it to assist by nice technicalities and legal blindness a transaction such as the government charges took place, and such breach of trust as the evidence in this case points unerringly to if not to absolute criminality? These gentlemen have the right to remain silent, to evade, to refuse to furnish information, and thus to defy the government to prove its case; but a court of equity has the right to draw reasonable and proper inferences from all the circumstances in the case, and especially from the silence of Secretary Fall and from the failure of Sinclair to testify. It is not sufficient answer that the government might have used Sinclair as a

witness. He was properly a witness for the defense. If he could not fully have explained the organization of the Continental Trading Company, Limited, he could at least have placed beyond the realm of dispute the question of whether he was connected therewith, and whether he received any government bonds as dividends therefrom, or shared in any distribution of its assets.

"We do not reach the same conclusion under the record. We fail to perceive why, under all the circumstances revealed in this case, it should be presumed that Sinclair knew nothing more than the other witnesses who testified as to the organization and business of the Continental Trading Company, Limited. Two of the witnesses familiar therewith were in France. The president of the company refused to disclose any facts of importance as to its business. Whether Stewart was available is a matter of doubt. With important and controlling facts in Sinclair's possession, and with a train of circumstances that aroused the gravest suspicion as to corruption practiced in securing the lease laid at his door, his failure to testify is a matter of deep significance. There is a presumption in the law that, if a litigant have facts within his knowledge and refuses to reveal them, it is presumed that if revealed they would be against him. The silence of one who should speak may well create an inference adverse to him.

* * * * * * * * * * *

"While no isolated fact, circumstance or presumption in the case and no particular inference may be sufficient to establish Sinclair's connection with the receipt of bonds by Fall or Everhart, yet, taking the entire record of what was done, and all the inferences properly to be drawn therefrom, the fact is sufficiently established that the bonds in the possession of Everhart and used in part for Secretary Fall's benefit were received by Everhart either from Sinclair or the Continental Trading Company, Limited. That company is shown to have been the agent of Sinclair, Blackmer, O'Neil and Stewart. Its assets consisted principally of Liberty Bonds. These assets were delivered to the shareholders, as Osler's letter shows. If by direct evidence it appeared that Sinclair was the owner of certain Liberty Bonds, which afterwards appeared in Secretary Fall's hands, in view of all the circumstances of this case, a court could not escape the conclusion that Sinclair had transferred them to Fall. The only difference here is that the bonds were the property of an agency in which Sinclair was interested, and in some manner reached Everhart and Secretary Fall.

"Is a court to say that, because none testified as to the actual transfer of the bonds, a fatal missing link in the evidence exists. We conclude not. The reasonable, proper, and natural inferences and presumptions from the accrual of condemnatory incidents appearing in this record supply the so-called missing links in the testimony and satisfy us of

Sinclair's connection with the Continental Trading Company, Limited, and with the acquisition of the government Liberty Bonds by Everhart and Secretary Fall. A trail of deceit, falsehood, subterfuge, bad faith, and corruption, at times indistinct, but nevertheless discernible, runs through the transactions incident to and surrounding the making of this lease. It should not receive the approval of the courts. Our conclusion is that the government has sustained its claim that the lease and contract were procured by fraud and corruption, and that they should be canceled. This conclusion is based on the theory that a part of the evidence, at least as to the purchase of the bonds and the identification of those coming into the hands of Everhart, was competent.

* * * * * * * * * * *

"The decree and judgment of the trial court, dismissing the bill of the United States, is reversed, and the case is remanded, with instructions to the trial court to enter a decree (a) canceling said lease and contract as fraudulent; (b) enjoining appellees from further trespassing upon the lands of the appellant described in said lease; and (c) providing for an accounting on the part of the appellee, Mammoth Oil Company, for the value of all oil and other petroleum products taken under said lease and contract."

Individual Report on Prohibition Investigation

Judge Kenyon's life continued on its even way throughout the following years. Intense judicial activities caused by crowded court sessions were alternated with brief vacations at his summer home, and even briefer visits to Fort Dodge. Those visits to the town from which he rose to prominence were great occasions. His friends and acquaintances were never allowed to feel that in any way he had outgrown them. He and his intimates discussed national problems during those "home" visits. No doubt the prohibition situation came in for its share of debate. The law enforcement phase of prohibition was responsible for his projection into nation-wide publicity once more. Herbert C. Hoover, whom he had supported during the food control days of the World War, had been elected President. President Hoover selected William Squire Kenyon, among the other members of his commission, when the call for action in relation to law enforcement became imperative. George W. Wickersham headed the National Law Enforcement Commission. He had been Judge Kenyon's chief in the Attorney General's division of the Department of Justice in 1910. Judge Kenyon was expected to sit as a member without relinquishing his judicial duties. While interested in the whole question of law enforcement, from the public viewpoint the Commission was concerned chiefly with prohibition enforcement. From that point of view it will be considered here.

A portion of the report of the Commission was presented to President Hoover on January 15, 1931.

"The President,
The White House,
Washington, D. C.

"Dear Mr. President: I take pleasure in handing you the report of this Commission on the subject of 'the problem of the enforcement of the prohibition laws of the United States,' together with separate individual statements of the respective members of the commission.

I have the honor to be, Very truly yours,
George W. Wickersham,
Chairman."

It is not necessary to go into detail concerning the entire Law Enforcement Commission report; the prohibition phase in particular. The history of prohibition is an open book. There are but few of us who can say that the subject is unfamiliar. We have talked about it for years, are still talking about it at the present day, and will talk more in years to come. Great publicity was given the document in the public press. Moreover the aspect of the situation has been changed by recent legislation. It concerns us here only to record the able comment of William Squire Kenyon, who, with his many years as legislator and jurist throughout the inception and application of national prohibition, was eminently qualified to review the situation. He was permitted to examine testimony that was closed to all but his co-workers. Additional words would be superfluous. If it is considered by some that a brief analysis of the report is called for, they shall find such an analysis incorporated in the words of Judge Kenyon, which follow:

"In signing the general report of the Commission, the right is reserved to each member to express his or her individual views as to matters therein discussed. It is not an easy matter for eleven individuals to agree on any report concerning the problem of prohibition enforcement, and of necessity there must be some give and take in order to reach any conclusions.

"I desire, as to some of the propositions, to submit a few observations.

"I use the term, 'prohibition laws' to cover all the laws passed by Congress to carry out the Eighteenth Amendment, and the terms 'witnesses' and 'evidence' to cover names and statements of parties before us.

"In the report is this: 'A division of opinion exists in view of the foregoing considerations as to whether enforceability of the law has been fairly tested.' It seems to me the evidence before us is sufficient to demonstrate that at least up to the creation of a Bureau of Prohibition in the Department of Justice the enforceability of the prohibition laws has never been subjected to any fair and convincing test. Whether in view of the bad start in the enforcement program and the maladministration of the same up to said time, there has been created a public sentiment against the law that makes it impossible for enforceability to have any fair chance, may be a debatable proposition. From my viewpoint, it is unfortunate that the hearings of the Commission on prohibition have been in secret, which compels us to file a report based in part on secret evidence. If the evi-

dence produced before us could have been made public I think it would have given to the country a true picture of why reasonable enforcement of the prohibition laws could not have been expected.

"The commission, of course, had no authority to grant immunity to witnesses, nor did it have the power of subpoena to compel attendance, which facts bore somewhat on the policy adopted of secrecy.

"Notwithstanding this policy, it is permissible, I think, to refer to some evidence of witnesses before us who did not enjoin secrecy, without giving the names except in instances where the witness may have publicly stated the same thing.

"There are many reasons why the prohibition laws have never had a fair chance of reasonable enforcement. I refer to some of them.

"Up to the time of the recent transfer to the Department of Justice of prohibition enforcement, responsibility therefor was in the Treasury Department. It did not logically belong there. The higher officials of the Treasury Department were skilled in finance, but not in law enforcement, and with some exceptions, had little heart in the enforcement of these laws. This naturally dampened any enthusiasm for enforcement on the part of enforcement forces all down the line.

"Another reason is that a large part of the personnel up to the time at least that employees of the Prohibition Bureau were placed under the Civil Service were the kind who would not ordinarily have been selected to enforce any law. The report points out the tremendous overturn and in a general way the political influences surrounding the appointment of prohibition enforcement agents. Prior to the covering into the Civil Service of employees of the Prohibition Bureau, appointments of prohibition agents to a large extent were dictated through political influence and by political bosses. The appointments were regarded as political patronage. We have had before us experts from the Civil Service Commission from whom we have learned that even after the prohibition agents were placed under Civil Service, this political interference persisted, that some of the worst men had the strongest political backing. An examination of the Civil Service records would tell the story. Some of the prohibition agents, whose appointments were attempted to be forced by political influence were men with criminal records. Some apparently sought the positions because of the opportunity for graft, and boasted of what they could make therein. Others were entirely competent. It has been stated before us by those who should know that at least fifty per cent of the men employed as prohibition agents prior to the time they were placed under Civil Service were unfit for the position, and incompetent as law enforcing officers. The turnovers in the prohibition personnel prior to Civil Service show a shocking condition. The situation is probably somewhat better now, and better men are being secured. There have been many honest, capable and patriotic officials in the prohibition service—men of the highest character, such as Prohibition Administrators John D. Pennington, S. O. Wynne, Thomas E. Stone, Alfred Oftedahl and others. I do not mean to criticize the entire personnel, nor by mentioning these to disparage all of the others. Some of the personnel have been excellent, some indifferent, some corrupt.

"Major Chester P. Mills, who honestly tried to enforce the law as Prohibition Administrator of the Second Federal District of New York, has told in articles published in Collier's Weekly in 1927, the story of attempted political influence in the appointment of prohibition agents in his district, and has repeated practically the same story before us. In these articles he said that 'three-fourths of the 2,500 dry agents are ward heelers and sycophants named by the politicians.' Politicians, some of them high in national affairs, attempted to force upon him men with criminal records—some of the very lowest grade of vote-getters—which apparently was the test of the politicians for good prohibition agents. Prohibition was expected evidently by some politicians to furnish a fine field for the operation of the spoils system in politics. Their expectations have been largely realized. One

of the leading political bosses of New York City informed Mills that he must let him control the patronage in his office or he would have to get out. Another told him that efficiency must give way to patronage. One agent with a criminal record whom he discharged was reinstated after Mills ceased to be Administrator, and was continued in office until about a year ago, when he was indicted for alleged conspiracy to violate the provisions of the National Prohibition Act. One of the parties whom it was insisted he should appoint had shortly before shot a man in a row in a speakeasy, another had been found with burglar tools upon him. Major Mills tried to do an honest job and soon discovered according to his statements, that he was not wanted on the job, and to use his language, was kicked 'up-stairs to an innocuous zone supervisorship.'

"In one district the evidence shows that a prohibition agent was transferred prior to an election because his enforcement activities were injuring the party and interfering with the collection of funds for the campaign. Some officers were directed by political bosses to let up in their activties and 'lay off' on their work until after some particular primary or election.

"Another reason somewhat closely associated with the character of the personnel, as to why the law has not been better enforced, is corruption. After every war there is a tragic era of graft and corruption, but all the corruption under prohibition cannot be attributed to the aftermath of the war.

"The profits in the unlawful making and vending of intoxicating liquors have been so enormous that the funds to invest in protection have been large, and the temptation to many men in the service on small salaries has been difficult to withstand. Evidence before us by those accurately acquainted with the workings of prohibition in the great cities, shows that in many of them the supposed enforcement of prohibition has been reeking with corruption, and has been a complete fiasco. The grand jury investigation at Philadelphia in 1928 disclosed that some of the police force were depositing more in the banks than their salaries amounted to. Bootleggers' accounts running up to $11,000,000 were deposited in a certain bank, and the officers of the bank testified they did not know any of the parties so depositing. Witnesses have presented to us evidence showing that breweries have been operated in the heart of a great city with the knowledge of prohibition agents, in some of which as much as $200,000 was invested in the plant. In one large city three breweries were openly operated, and at least up to April 1, 1930, were making real beer and delivering it around the city. Everyone in the vicinity except the prohibition agents seemed to know of the breweries. Truck loads of liquors have been transported under the protection of police. In one state prohibition agents, sent to a great university to look into the situation at a 'Home Coming,' were found drinking with some of the students in a hotel room. In many of the cities there has developed under prohibition an entirely new underworld, due to the large amounts of money involved in the bootlegging business. The gangster and his crew have taken an important part in politics, and in connection with politicians and under their protection control the liquor business in many of the cities. In one of them gangs have entered into agreements dividing the city for plunder, and providing that the beer privilege shall belong in certain parts of the city to certain particular gangs, and criminal syndicates take care through politics of those who buy from the gangs.

"There are thousands of speakeasies operating in the large cities—the number is appalling. Speakeasies cannot operate openly unless protected from prosecution. One who can operate a speakeasy in a block where policemen are constantly passing is enabled to do so only because of one thing, and that is protective graft. In some cities there is complete protection by ward politicians who must have back of them the influential political bosses. The speakeasies could not run a day if the authorities would act. The combination of liquor and politics has been almost fatal to law enforcement, but surely the government is not powerless to strike, and strike hard at such a situation. Surely enough honest men can be found to act as prohibition agents and as police. If not, there is no use in any further efforts to enforce these laws or any other laws.

"I have referred to only a part of the evidence before us showing the mess of corruption. It is different in view of the secret policy of the Commission to prepare any report doing justice to the subject that may not do injustice to the many able and honest men in the service. Some of the evidence is so startling that it is difficult to believe it. Of course, there was corruption prior to prohibition. The saloon was the center of political activity, but I think the corruption was not so widespread and flagrant as it now is. The amounts involved were not so large. Corruption had not developed to a high degree of efficiency. Nothing but a congressional investigation could give to the public the whole story.

"This situation has developed a type of politician-lawyer unknown to the federal courts in earlier days, who sells his supposed influence with the district attorney's office and acquires the bootlegger's legal business in many instances by virtue of his political connections and influence.

"Certain abuses in some of the cities in the permit system of handling alcohol have added to the difficulty. Political influence has been exerted to secure permits and the reinstatement of revoked permits. Quite a business along that line has been carried on by some political lawyers. One witness who knows the situation in one of the larger cities states that permits are sometimes secured by getting men with decent reputations to appear as the real applicants, when in fact behind it are gangsters and underworld men. Some legitimate permittees have been blackmailed by threats to revoke permits. In some cases where administrators have denied applications the applicants have gone to the federal district court, and that court in some instances has directed issuance of the permit. Today the courts are more inclined to sustain the administrator, where he refuses a permit than they formerly were. In some instances the cases were not properly presented to the court on behalf of the administrator.

"How, in view of all these things, can it be reasonably claimed that the prohibition laws have had any real honest test as to enforceability. It seems to me they have never had a chance. Laws against murder and arson under similar conditions, could not have been enforced. If a different beginning had been made in the enforcement of these laws, there might have been a very different story.

"No laws can be enforced without reasonable public sentiment behind it. Public sentiment against the prohibition laws has been stimulated by irritating methods of enforcement, such as the abuse of search and seizure processes, invasion of homes and violation of the Fourth Amendment to the Constitution, entrapment of witnesses, killing by prohibition agents, poisonous denaturants resulting in sickness and sometimes blindness and death, United States attorneys defending in the federal courts prohibition agents charged with homicides, the padlocking of small places, and the lack of any real attempt to padlock clubs or prominent hotels where the law is notoriously violated, the arrest of small offenders and comparatively few cases brought against the larger ones. The limitation of the amount of liquor that physicians may prescribe for medicinal purposes, restraint in the use of alcohol for scientific purposes, the fruit juice proviso of the National Prohibition Act (Section 29, Title II), which practically permits the making of wines in the home when there is no similar provisions as to the making of beer, have contributed to the dissatisfaction.

"That there has been abuses of search and seizure processes is without question; likewise as to entrapment of witnesses. We have studied the numerous cases of killings by prohibition agents in the attempt to enforce the laws. There have been few convictions. Some of the shootings were apparently careless and unjustifiable, and evidence of the reckless use of firearms and disregard of human life. There has been a too free and easy use of firearms by some of the prohibition agents. This is now being restrained.

"On the other hand, many prohibition agents have lost their lives in attempting to perform their duties, concerning which little reference is made by the press.

"The defense by United States District Attorneys of prohibition agents charged with killing has made difficult the conviction of such agents.

"The Supreme Court of the United States held that agents of the government engaged in enforcement of the prohibition laws have the right of removal of a case against them from the state to the Federal Court when they are charged with homicide while engaged in their duties, *Maryland V. Soper*, 270 U. S., 9. The present attorney general has announced a very wise doctrine on this subject, which may be summed up, I think, by the statement that while the United States attorneys will defend in these cases after removal to the Federal courts, they will not attempt to procure the acquittal of guilty men or attempt to justify unlawful or illegal acts by federal officers. This question of defense by district attorneys of the United States raises very difficult questions of policy and of justice. The Federal Government might be seriously impaired if its officers were to be tried in State courts for conduct in carrying out their legitimate official duties. On the other hand, it is apparent that with the United States attorney defending a man in the Federal Court there is little possibility of conviction. It seems to me the policy of Attorney General (William DeWitt) Mitchell will alleviate to some extent this particular irritation.

"The present book of instructions to agents issued by the Prohibition Bureau stresses the idea that enforcement must be by lawful methods. Government lawlessness is an abhorrent proposition in law enforcement. The Fourth and Fifth Amendments to the Constitution safeguarding the rights of citizens are fully as important as the Eighteenth Amendment. 'Let the homes alone,' should be the policy of enforcing officials, unless there is a clear showing that the home is being used as a place for the sale of liquors or the manufacture for sale. (Such is apparently the present policy of the new Administrator.) The doctrine that a man's home is his castle still applies so long as it is used as a bonafide home. Nothing can tend to create public sentiment against these laws more than the invasion of the home.

"The use of poisonous denaturants in alcohol cannot be justified. Death or blindness is too heavy a punishment to administer to one who may indulge in a drink of liquor. We are advised that arrangements have been made for the use of non-poisonous denaturants which make the liquor nauseating but not fatal. Congressman (William I.) Sirovich of New York clearly pointed out in a speech in the House of Representatives on January 17, 1930, how this can be done.

"Some of the physicians who have appeared before us make no objections to the restrictions upon physicians in the use of liquors as medicines. They differ as to the necessity for such use, but the majority of them resent these limitations as to the maximum amount of alcohol that may be permitted to a patient within a given period placed upon them by laymen who have no knowledge of the needs therefor, and take them as a reflection on the medical profession. Physicians should be permitted, under reasonable regulations, to prescribe whatever liquor in their judgment is necessary for a patient. If a physician can be trusted to prescribe dangerous drugs he can be trusted to prescribe liquors as medicines.

"The forfeiture of automobiles of innocent persons in which liquor may be found adds to the irritation.

"These things have not helped to create a friendly attitude toward the prohibition laws by those who might be considered as neutrals and undoubtedly have interfered with their enforcement by creating public sentiment against them. Public sentiment changes quickly in the United States, and a fair and honest trial of prohibition laws and less of the irritating methods of enforcement might change the public sentiment on the question.

"It is impossible to obtain satisfactory statistics to show whether or not more intoxicating liquor is being consumed today than during pre-prohibition days. I am satisfied there is not. The

liquor bill of the nation before prohibition was staggering. It required a tremendous outpouring of liquor to support one hundred and seventy-eight thousand saloons openly selling and soliciting business. Most of the witnesses agree that there is less drunkenness under prohibition than before. Statistics generally can be secured to prove almost any proposition, and we have a mass of them in our files on various phases of the subject. Figures uninterpreted may be very misleading. The years 1920 and 1921 seem to have shown the best results under prohibition. The low mark in arrests for drunkenness was reached in those years. In many parts of the United States it appears that arrests for drunkenness have increased since 1920.

"Arrests for drunkenness are not an infallible index, but do have significance. The attitude of the police of one city toward prohibition laws may be entirely different from that of another. Some do not regard violations of such laws as serious, and leave the entire matter to the United States Government, making few arrests. Others regard drunkenness as more serious than in the pre-prohibition days.

"Alcoholics in detention institutions have apparently increased and the figures given out by the Metropolitan Life Insurance Company tend to show there have been more deaths from alcoholism in the last few years than heretofore. That company in a report on the subject says:

> 'The rising alcoholism death rate in this country since 1920 cannot, in our judgment, be explained by increased consumption of *hard* liquor as compared with war-time and pre-war-time years. The reason must lie, we think, in the greater toxicity of the alcoholic liquors which are now used so generally throughout the country. The only one encouraging feature in this picture is that officials of various states, responsible for the public health, are now stirred by the situation, and are preparing measures for its more adequate control.'

"This upward trend in the death rate from alcoholism is accounted for solely by some on the theory that the liquor available today is more injurious to life than that available before prohibition.

"That there is an abundance of intoxicating liquor is evident. It is idle to close one's eyes to that fact. It is supplied by smuggling, illicit distilling and diversion of industrial alcohol.

"In the report made to the President on January 13, 1930, we have spoken of the tremendous border line of this country, which makes the control of smuggling difficult. While some of the reports that have been given out by the Prohibition Bureau would indicate that smuggling has decreased, the figures before us tend to show that it has not, except in spots. At some particular points such as Windsor, smuggling may be lessened, only to break out at other places, such as Amherstburg. The situation at Detroit is one of the worst in the United States, and the few boats, the small force of the customs and prohibition agents of the government, are totally inadequate to cope with the problem in that vicinity. Bank statements at Detroit would show the tremendous business of some smugglers.

"The Canadian Parliament has recently passed a law forbidding exportation of liquor to this country, which it was supposed would be helpful in meeting the problem as far as the Canadian boundary line is concerned, but it appears that since this change there has been more smuggling than before the passage of the act.

"That it will require a tremendous force in the nature of a border patrol to prevent smuggling from Canada and Mexico is apparent. It should be a unified border patrol. To prevent all smuggling along our extended waterfronts is impossible. It requires constant vigilance to hold it within any reasonable bounds.

"The Prohibition Bureau makes reports as to the seizure of stills, illicit distilleries and paraphernalia used in the manufacture of whiskey. These figures show an enormous increase in the number of stills seized by agents of the Bureau since 1920, in which year there were approximately thirty-two thousand stills seized. In 1928 there were about two hundred and sixty-one thousand. These stills are sold by mail order houses and department stores in sections and easily set up. General Lincoln C. Andrews, formerly Prohibition Administrator, before the Senate Committee investigating this subject in 1926, testified that the department in twelve months had seized one hundred seventy-two thousand six hundred stills and had not captured, he thought, more than one in ten. That testimony would indicate a tremendous number of stills. The evidence before us tends to show a great increase in the number of stills and a universality of operation, extending all over the country. The amount of moonshine liquor made in this country per year cannot be estimated within reasonable bounds.

"It is asserted there has been a great increase in the manufacture of flasks and corks. We have been unable to obtain any evidence as to this.

"The question of diversion of industrial alcohol as a source of the liquor supply is discussed in the report. That there have been serious and unconscionable diversions of industrial alcohol in the past is without question. The specially denatured alcohol permittee is the chief diverter of industrial alcohol into beverage channels. Major Mills estimated a diversion of fifteen million gallons of industrial alcohol in New York per year when he became Prohibition Director for that state. At Buffalo in one three month period ninety carloads of such diverted alcohol were seized. We have before us reports of special agents made to their superior officers in the year 1930, with relation to the legitimate consumption of industrial alcohol in one district in a large western state to be used by 2,300 drug stores, 200 hospitals, 25 Turkish baths, and miscellaneous consumers. The report shows that 60,000 gallons would cover the actual needs for these purposes, but the amount imported in 1929 to that district as four times the quantity legitimately used. In this particular district, it was estimated that industrial alcohol products constitute approximately thirty per cent of the total contraband liquor seized. In this same state it was estimated by those who should know that in the northern part of the state ten to fifteen per cent of seized liquor is diverted alcohol, while in the southern portion it is thirty per cent. Others estimate it at seventy per cent. Two important cases were brought by the government last year, one at Baltimore and one at Chicago, involving the question of a conspiracy in diversion of industrial alcohol. It is charged in the Chicago case that during a period of seven years a million gallons of alcohol a year have been diverted to illicit distilleries. The ramifications of this conspiracy reach from New York to Los Angeles. Large quantities of industrial alcohol are seized in carload lots that never reach a still. In the Chicago case over three carloads had been seized and the railroad records show that approximately 138 carloads of the same product had been shipped into Chicago in six months. Carloads of pure grain alcohol have been seized where the consignor and the consignee were both fictitious. The diversion of industrial alcohol in the New England district was forty-four per cent of the total in the district a year and a half ago. It has been, according to the prohibition officers, reduced to twelve per cent. One administrator captured within two or three months last year one carload of insecticide. Forty per cent of it was alcohol. It came from New Jersey and was ordered destroyed by the Federal Court. Another car of the same stuff was captured at Cleveland. From January 1, 1927 to March 4, 1927, the same administrator captured nineteen carloads of straight alcohol. It came from the Federal Chemical Company, of Nitro, West Virginia. Figuring 78,000 gallons of straight alcohol in the car would be 1,482,000 gallons. It was all billed to firms that did not exist (otherwise known as cover houses). It was not certain that any denaturants whatever

had been placed in this alcohol. A Chemical and Products Company in the same district, which was a fake concern operating under a permit, had a capacity of 80,000 gallons of alcohol per month. This would make three times the amount of bootleg whiskey, or 240,000 gallons, which would sell at $30.00 a gallon. In one district alone millions of gallons have been diverted and enough withdrawn in a few months for perfume manufacturers to perfume the South Sea Islanders. There has been enough especially denatured alcohol within one year drawn by one corporation for hair tonics 'to supply the world with hair tonic,' as one witness puts it. There have been diversions of medicinal and sacramental alcohol, but they are minor compared with the diversion of industrial alcohol.

"The legitimate uses of alcohol throughout the nation in industry have tremendously increased. There were some 38,000,000 gallons withdrawn in 1921 for denaturing purposes, while in 1929 there were 182,000,000 gallons withdrawn, an increase of nearly five hundred per cent. The Department of Commerce has been unable to furnish us with the figures as to the amount of alcohol needed per year for legitimate industry. The permittee has not been required to follow through to ultimate destination the alcohol he sells, and through the instrumentality of cover houses the system of fraudulent diversion has been built up in this country by crooked permit holders. Corporations and partnerships have been created merely for the purpose of using diverted industrial alcohol. The independent denaturing plant is a fraud, and should not be permitted to exist apart from the manufacturing plant. Undoubtedly the Bureau is strenuously endeavoring to remedy this leak. Such things as supposed manufacture under permits and formulas for hair tonics, perfumeries, deodorants, barbers' supplies, tobacco, sponges, lacquers, paints and varnishes, furnish opportunity for diversions. In many instances where permits have been taken away new companies representing the same parties have been organized and new permits secured. Fly-by-night concerns, dignified by titles of chemical companies and drug associations have been acting as cover houses and denaturing plants. It is possible the situation could be remedied by requiring accounting by concerns which purchase from the permittee, or by the adoption of regulations urged by Mrs. (Mabel Walker) Willebrandt when Assistant Attorney General, requiring permittees to follow the liquor through to ultimate destination, although there is some legal difficulty in the matter.

"It is impossible to estimate with any degree of accuracy the amount of industrial alcohol diverted into bootleg channels. Any estimate is a mere guess. The Bureau announced some time ago that it had cut down on permits some fifteen million gallons of industrial alcohol per year for the future. How the Bureau arrived at this arbitrary figure we are not advised. If the Bureau can arbitrarily cut the amount allowed to permittees fifteen million gallons it is some evidence that at least that much diversion has been taking place. The Director of Prohibition estimates the diversion for the year ending June 30, 1930, as nine million proof gallons. One estimate is probably as good as another. My own would be from the evidence before us that ten million gallons per year over a period of years was the minimum average of diversion, at least up to the present time; and while under the efforts of Dr. (James M.) Doran such diversion has been materially lessened, it has not stopped. The problem is a most difficult one.

"The production of corn sugar, which it is claimed is used largely in the manufacture of whiskey, has increased from 157,000,000 pounds in 1919 to 894,985,794 pounds in 1929. What percentage of the increased production of corn sugar is used for the production of illicit whiskey is problematic. Of the unrefined average product from which alcohol can be made, approximately one hundred million pounds are used per year for the manufacture of rayon. It is also used in other textiles as starch; is used in tanning leather, vinegar manufacture, by caramel makers, for candy fondant, ice cream and condensed milk. The legitimate uses of corn sugar, however, do not

account for the enormous increase, and it must be assumed that a considerable proportion of the corn sugar goes into the bootleg trade, and is one of the chief sources in the manufacture of illicit liquor. Corn sugar is preferred by the moonshiner because of the price, though cane and beet sugar contain more fermentable material and hence offer a larger return of alcohol.

"The blame for the supply of illegitimate liquor should not be placed entirely on corn sugar, which has enough to answer for without putting on it all the responsibility for the prevalence of illicit alcohol. It is undoubtedly contributing its part. While alcohol can probably be produced more cheaply from corn sugar, it is not so safely done as to obtain it by diversion.

"The beer situation has changed very materially under prohibition.

"The increase in the production of hops in the United States has been quite marked, *viz.*, 27,744,000 pounds in 1922, 33,220,000 pounds in 1929. Some hops are used for medicinal and commercial purposes. Probably 10,000,000 pounds go into the manufacture of beer. There has been a large increase in the production of yeast. In recent years considerable beer has been shipped from New Jersey to other states. Breweries are openly operating in New York City. In some of the leading cities large plants have been engaged in manufacturing beer. No man is buying a brewery since prohibition except for bootlegging purposes. Some great breweries such as the Anheuser Busch Company at St. Louis have obeyed the law and upon the enactment of the prohibition laws ceased to make real beer.

"What is known as wort, a product of barley, is now being used in the production of beer, and in the industry known as 'alley brewing,' which has developed in the large cities. It seems impossible to secure any information as to wort. We took up the question with the secretary of the National Malt Products Association, but he could furnish us no information as to the amount of its production or use in this country. It is interesting, however, to note in this connection that the state of Michigan in 1929 imposed a privilege tax upon the sale of malt syrup, malt extract, and wort. The question of wort being subject to this tax is now in the courts. From August 28, 1929, to March 20, 1930, there was collected from the tax approximately $600,000.00.

"The general report has covered rather fully the question of increased drinking of liquor among college students. These students know that a large number of American citizens are daily helping those who are violating the prohibition laws by patronizing the bootlegger and smuggler. They see the law ridiculed in many of the motion pictures today and in the newspaper cartoons. It is little wonder that their respect for the law has been lessened. There was drinking in the colleges before prohibition. It is not clear how any system that might make liquor easier to procure would remedy this situation. Efforts to teach the bad effects of drinking intoxicating liquor upon the health and the efficiency of the individual seems to have lessened if not entirely stopped since the adoption of prohibition, and the growing youth of today has not had any advantage from such teachings as in the pre-prohibition days. Hence to a considerable extent he does not understand the reason for having prohibition laws and rebels against what is considered restraint to liberty.

"The government could well afford to appropriate money for an educational campaign throughout the nation to educate the youth of the land in respect for law. It is fully as important as to appropriate money for many of the governmental purposes of today. Nothing is more fundamental to the stability of the republic than a deep seated respect for law among the youth thereof. Education is not so important as to the older citizens, for they will soon pass off the stage. Any plan of education as to respect for law should be limited to the youth of the country. It would be a useless performance as to those who consider themselves so completely educated as to be above law.

"There is much to be placed on the credit side of prohibition, even under the inauspicious circumstances surrounding its supposed enforcement, that should incline public sentiment favorably

toward a further test of enforceability of the law. Approximately 178,000 legal saloons have been closed under prohibition. Only one or two witnesses before us have favored the return of the saloon. They were driven to that position by their theories as to local option and the leaving of the matter entirely with the states. While there are thousands of speakeasies today in the great cities, where people may sneak in side doors or down an alley and in some back way and get liquor, or may go to other speakeasies more openly operated, yet it must be that the abolition of the saloon has been a mighty movement for the betterment of the nation. The saloon was in partnership with crime. It was the greatest aid in political corruption. It never did a good thing or omitted to do a bad one. Nothing good could be said of it, and it is notable that very few people advocate its return. The open saloon in this country is dead beyond any resurrection. People are prone to forget the picture of conditions before prohibition. Speakeasies, so prevalent in the large cities, are not entirely a product of prohibition—they existed prior thereto. Interesting is the following account from a Pittsburgh paper of November 15, 1900:

> 'At the meeting of the retail liquor dealers yesterday the statement was made that there are in Allegheny County 2,300 unlicensed dealers who sell liquor, in violation of the law, every day in the year, Sundays and election days included. This is a decidedly startling assertion, for while it is notorious that speakeasies exist and, are to some extent tolerated by the authorities, there has been no visible reason to suppose that illicit traffic was being conducted on so large a scale. The district attorney of the county and the public safety directors of the city ought to be heard from on this head. If the law is being violated so extensively as the licensed dealers claim, it is manifest that there must be a wholesome neglect of duty in official quarters.'

"Some witnesses before us have strongly challenged the claim that prohibition has benefited industry. At the House of Representatives' hearings and before us, representatives of great industries spoke against prohibition. These same representatives take strong ground against their employees drinking. It is an irritating circumstance to labor that great captains of industry favor prohibition to prevent the laboring men securing a glass of beer on the ground that they can get more work out of them if they do not have liquor, while they reserve to themselves the right to have all they want in their cellars and club lockers. We asked many of the leaders of industry to express themselves on the question of whether conditions in industry were better than before the passage of the prohibition laws. Some appeared and some filed statements. I quote from a few.

"From the president of a great coal company:

> 'I know the business men of my acquaintance, quite generally, have something wet around their homes, if they want it, but the spirit of it is more that of the mischievous school boys who rather shuns the *goody-goody* path but is not positively bad. When some of our best people are evading taxes, concealing dutiable goods, violating the Sunday laws, divorcing, swapping mates, speeding, gambling, etc., I do not quite understand the agitation about liquor violations. Law enforcement has always been one of the chief functions of government, and one would think the Eighteenth Amendment was expected to enforce itself.
>
> 'The old liquor laws aimed to control the public nuisance feature of drinking and failed. The present law, in our mining towns at least has strongly corrected that failure. There is some moonshine liquor, some home-brew, and some

bootleg, but the old days of the pay-day whoopee are gone. What drinking there is, is under cover, the practice of drinking up a whole month's pay, and challenging the world to mortal combat has passed. A drunken miner in public is so rare a sight that when it happens one would think a dancing bear had come to town, and even his chance acquaintances rally to get him out of sight.

'. . . . I have seen pay days when it was not safe to ride on the branch-line trains going to and from mining towns. I have seen at Christmas season the station platforms jammed with a swearing, fighting, vomiting mob, with cheap Christmas toys thrown away, tramped on and lost. I have lain awake listening to the crack of revolvers as miners staggered up and down the railroad tracks. I have fought with crazy drunks at the pay window. I have seen Christmas-tree entertainments broken up, religious worship interrupted, and Sunday School picnics turned into a stampede of terror.

'Wages have not increased enough to provide for any great amount of liquor at prevailing prices, and at the same time to buy automobiles, radios, electrical appliances, and better food and clothing. The drink bill must be much less than before.

'It is only fair to state that whatever success prohibition has had in the mining fields may be somewhat attributed to the mine operators. No matter how much they may talk wet and drink wet in the great convention cities, they do not want any *modification* at their mines.

'I believe I have noticed some increase in drinking during the past year, and it may be due to the publicity given the matter by the wets and drys.

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'Prohibition may be an utter failure other places, but is not so here nor with the industrial people with whom I make contact. They are spending more money for things the whole family enjoy, are better fit for work, better fed, and they constitute a majority of our population.'

"From the head of a great industrial company:

> 'Improvement in the economic condition of employees' families is evidenced by the fewer cases of distress among employees reported from time to time. Visiting nurses whom we employ to visit and administer to families of employees in case of sickness, report that the economic condition of such families is much better now than prior to prohibition.'

"From another:

> 'The working people are better off under prohibition, they make more money and have more time. I do not dread Monday morning like I used to before prohibition. There is less of the effects of liquor on the job today than there was four or five years ago.'

"There are many other statements of similar import, and only a few of different view. Mr. Samuel Crother in articles in The Ladies' Home Journal last year set forth many statements on the subject from industrial leaders. We find from a check-up that these statements are substantially correct and can be relied on.

"My conclusion on this subject from the evidence before us is, that while there is some drinking now creeping into certain of the large industrial establishments, and the bootlegger is endeavoring to ply his trade there, on the whole industry has vastly benefited by prohibition. Accidents have been fewer and efficiency greater. The working men and their families are more prosperous than before prohibition. The contest for the Saturday night pay check between the wife and the saloon keeper is no more.

"Some of those in favor of prohibition are wont to claim that increased life insurance, home-building, bank deposits, automobiles, radios, are to a large extent the result of prohibition. The marvelous progress of this Nation can not of course be entirely attributed to prohibition. There are many factors, apparent to any thinking person, which have been at work to build up what we like to call prosperity. There has been an industrial revolution in the United States, and industrial development has contributed materially to prosperity. Certainly, however, much of the money formerly spent on the saloon has gone into the purchase of automobiles, radios, better furniture in the homes. That prohibition has been a factor contributing to our prosperity can not well be denied. Savings deposits have increased from $11,534,850,000.00 in 1918, to $28,538,533,000.00 in 1930. High wages during and since the war and steady work in industry have of course been a contributing cause. It is impossible to determine approximately what *per cent.* of the increase of savings deposits is due to prohibition, but some undoubtedly is.

"As to the question of the effect of prohibition upon social welfare: we have had statements before us from Miss Evangeline Booth and Miss Mary McDowell, head of the University of Chicago Settlement House, and others who are familiar with conditions among the poor and the working people in industry, to the effect that prohibition has resulted in a better condition of affairs. Miss McDowell states that in the packing house district of Chicago the homes of the working men are better; their children better fed and clothed; there is less rioting and shooting up alleys; more observance of law and order; that there were hundreds of saloons in that neighborhood prior to prohibition, and while now there may be some speakeasies, there are no open places to entice the workingman and relieve him of his pay check. In a remarkable statement to the commission by Miss Evangeline Booth, she says in part:

'To sum up the conclusion of the Salvation Army in a sentence or two, I desire to state in unmistakable terms that the benefits derived from prohibition far outweigh any difficulties that may have been raised against its enforcement, that the wettest of wet areas is less wet today than it was when the saloon, usually accompanied by the speakeasy, was wide open, and that much of the outcry against the Volstead Act, so far from undergoing a failure of enforcement, arises from persons who in fact cannot obtain all the liquor that they desire.

'As Commander-in-Chief of the Salvation Army in the United States, and with full support of my officers, I warn the Commission that any surrender to the forces of crime and indulgence at this time will be followed inevitably by a heavy toll in human life and by a loss of the prosperity which has been an untold blessing to millions of our homes. The hope that crime will be diminished by concessions to crime is preposterous on the face of it.

'The Salvation Army knows the underworld. Tens of thousands of its victims have been rescued by our efforts, and a victory of the wets over the law of the land, if permitted, will be a signal for an orgie of exultation and renewed excesses, by those whose entire life is a rebellion against orderly citizenship.'

"Other words of Miss Booth that challenge attention are:

> 'You can hush every other voice of national and individual entreaty and complaint! You may silence every other tongue—even those of mothers of destroyed sons and daughters, of wives of profligate husbands—but let the children speak! The little children, the wronged children, the crippled children, the abused children, the blind children, the imbecile children, the dead children. This army of little children! Let their weak voices, faint with oppression, cold and hungry, be heard! Let their little faces, pinched by want of gladness, be heeded! Let their challenge—though made by small forms, too mighty for estimate—be reckoned with. Let their writing upon the wall of the nation—although traced by tiny fingers, as stupendous as eternity—be correctly interpreted and read, that the awful robbery of the lawful heritage of their little bodies, minds and souls is laid at the brazen gates of Alcohol!'

"If anyone is entitled to speak with authority on the subject, it is Miss Booth, and what she says is not paid propaganda.

"It has been charged by some who have appeared before us that the criminal elements in the United States now engaged in violating this law, as well as every other law, find encouragement from the attitude of those who have been termed by witnesses 'the upper crust' of society, meaning that portion of the very rich people of the Nation constituting so-called fashionable society. It is not fair to indict all the so-called 'upper crust' of the Nation as law-breakers, but it has been frankly stated before our Commission that many of these people of great wealth and prominence will not obey the prohibition laws, do not intend to, and boast of the fact that they will not because they do not believe in them and consider them an encroachment on personal liberty. In other words, that they will obey the laws in which they believe, and refuse to obey the laws in which they do not believe. If that is to be the standard of law observance, our government will fail. The forger and the bank robber; the highwayman and the embezzler do not believe in laws that restrain them. There is no more reason why what is termed the 'upper crust' of society should choose the laws they will obey than that the same privilege should extend to the 'under crust.'

"Clubs in some of the cities, officered by distinguished men, leaders in finance and in the life of the community, are maintaining bars where liquor is freely dispensed to the members. People who buy bootleg liquor are assisting in violating the law and are contributing money for purposes of bribery and corruption, for they know that the system of illicit sale of liquor cannot be carried on to the extent that it is without bribery and graft. They are moral accessories to the illegal business of the bootlegger. They are assisting in breaking down law in the Nation.

"One of the greatest of American manufacturers is reported by the newspapers to have recently said:

> 'That portion of "high society" that buys bootleg liquor is just a part of our underworld.'

"A truth well stated.

"Honorable Herbert C. Hoover, in his address accepting the Republican nomination for President, said in part:

> 'Modification of the enforcement laws which would permit that which the Constitution forbids is nullification. This the American people will not counte-

nance. Change in the Constitution can and must be brought about only by the straightforward methods provided in the Constitution itself. There are those who do not believe in the purposes of several provisions of the Constitution. No one denies their right to seek to amend it. They are not subject to criticism for asserting that right. But the Republican Party does deny the right of anyone to seek to destroy the purposes of the Constitution by indirection.'

"In his inaugural address of March 4, 1929, he said:

'But a large responsibility rests directly upon our citizens. There would be little traffic in illegal liquor if only criminals patronized it. But we must awake to the fact that this patronage from large numbers of law-abiding citizens is supplying the rewards and stimulating crime.

'. . . . The duty of citizens to support the laws of the land is coequal with the duty of their government to enforce the laws which exist. No greater national service can be given by men and women of good-will—who, I know, are not unmindful of the responsibilities of citizenship—than that they should, by their example, assist in stamping out crime and outlawry by refusing participation in and condemning all transactions with illegal liquor. Our whole system of self-government will crumble either if officials elect what laws they will enforce or citizens elect what laws they will support. The worst evil of disregard for some law is that it destroys respect for all law. For our citizens to patronize the violation of a particular law on the ground that they are opposed to it is destructive of the very basis of all that protection of life, of homes and property which they rightly claim under other laws. If citizens do not like a law, their duty as honest men and women is to discourage its violation; their right is openly to work for its repeal.'

"In his address at the annual luncheon of the Associated Press in New York City, April 22, 1929, he said in part:

'What we are facing today is something far larger and more fundamental —the possibility that respect for law as law is fading from the sensibilities of our people. Whatever the value of any law may be, the enforcement of that law written in plain terms upon our statute books is not, in my mind, a debatable question. Law should be observed and must be enforced until it is repealed by the proper processes of our democracy. The duty to enforce the law rests upon every public official and the duty to obey it rests upon every citizen.

'No individual has the right to determine what law shall be obeyed and what law shall not be enforced. If a law is wrong, its rigid enforcement is the surest guaranty of its repeal. If it is right, its enforcement is the quickest method of compelling respect for it. I have seen statements published within a few days encouraging citizens to defy a law because that particular journal did not approve of the law itself. I leave comment on such an attitude to any citizen with a sense of responsibility to his country.

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'. . . . Respect for law and obedience to law does not distinguish between federal and state laws—it is a common conscience.'

"General (John Joseph) Pershing, at a dinner to ex-service men is reported to have said:

> 'Ex-service men must stand up courageously and fearlessly for everything sacred in our institutions. No man or woman can fulfill the obligations of citizenship who remains passive regarding the enforcement of the law.'

"These statements at this time are entitled to the thoughtful consideration of the American people. This government will continue to be a government of law or it will cease to be a government at all. The representatives of great property interests who are well within their rights in seeking repeal of the laws go far beyond such rights when they defy the laws' enforcement. The day may come in this country when representatives of great property interests will realize that they need the protection of the law for the properties they represent more than the people may need it.

"Everything in the way of breaking down of law, prison riots, hard times, increase in crime, is charged to prohibition by its enemies. That there is an increase of crime in this country is evident to all practical thinking citizens. The whole age in which we live has changed. Crime is more sensational, is featured all too much by the newspapers, and has become nauseating. The great war affected the thought and habits of people, and resulted in a national letdown in our moral fibre. All this has borne on the question of criminality. Surely the terrorizing of the people of some large cities by gangs of murderers who seek to create an American Mafia in this country cannot be laid at the door of prohibition. The revenue of these gangsters comes from gambling establishments, dance halls, houses of prostitution, and other vice dens and not entirely from beer and other liquors.

"The calm judgment of the American people must face the situation as it now exists. It is probable that the Eighteenth Amendment cannot be repealed. The other alternatives are enforcement, modification, or nullification. Nullification is an odious word in this republic and yet the Fifteenth and parts of the Fourteenth Amendment to the Constitution have been nullified, and such nullification accepted by the people. The situation now as to use of wine concentrates, which seems to be backed by governmental appropriations, amounts to a nullification in part of the Eighteenth Amendment. That the Eighteenth Amendment is now nullified in many of the large cities of the country cannot be denied by anyone willing to face the facts, and this very nullification is producing public sentiment against the prohibition laws and affecting the judgment of those who earnestly believe that it is a dangerous proposition for a country to permit its laws to be nullified. It would be better to modify the Eighteenth Amendment than to nullify it. I have pointed out the reasons why, in my judgment, the prohibition laws have never had a fair chance of enforcement. The effort to enforce the same is now quickened due I think somewhat to the statements made by the President in his various addresses, from which I have quoted, and due to the transfer of enforcement to the Department of Justice.

"It has been admitted by some of the strongest prohibition leaders of the country whom we have had before us that the prohibition laws cannot be enforced without the coöperation of the states, that the cost would be almost prohibitive, and it is doubtful if the people of the Nation would countenance a system of federal policing of our cities. Certainly that is a duty that should not rest on the federal government. Dr. Doran and General Andrews, testifying in 1926 before a Senate Committee, stated it would require $300,000,000 a year to administer the prohibition laws if state coöperation could not be secured. It is idle under our form of government to talk of enforcing these laws by the military and naval forces. In large cities in the states which have no enforcement laws the National Prohibition Laws are bound to become more or less a dead letter, unless public sentiment therein changes. The government can go ahead and prosecute some of the larger

cases, but every little violation cannot be taken care of by the federal government at least without creating a system of courts and police that would be staggering.

"I do not like to admit that the Federal Government cannot enforce its laws without the help of the states, but I am satisfied it cannot enforce completely the prohibition laws without such aid. Certainly it cannot enforce them in a state where there is active opposition on the part of the officials of the state, and while there is no legal duty on the states that could in any way be enforced to assist in carrying out the federal statutes, it is apparent that Congress in providing for concurrent jurisdiction expected the states to assist. There is a moral obligation on the states to assist in enforcing the Eighteenth Amendment and laws passed in pursuance thereof. They should take care of the violations coming particularly within the province of the state, such as intrastate violations of the law. States are a part of the federal government. Surely there is a solemn moral duty on the states to support the Constitution. The Constitution and amendments and laws to carry them into effect are still the supreme law of the land. What kind of a Union of States is this if there is no obligation on the part of the states to assist in preserving the government which makes possible the existence of the states and guarantees to every state a republican form of government and protects it against invasion? It is a dangerous doctrine that the states of the Union have no interest in preesrving the Federal Government. The words of Senator (William Edgar) Borah in an article in the *New York Times*, of January 28, 1929, hit the nail squarely on the head. He said:

> 'The most inconsistent and indefensible thing in all government is for a state to be a part of a government, to belong, as it were, to a government, to enjoy the interstate trade and commerce, the prosperity and the dignity of such government, but whose will and policy and authority it rejects. It is a part of the government for its benefits and its privileges. It is against the government for its supposed burdens. That is a false and mistaken position to take and no argument, no plea will be able to justify such a position, or give it a place of dignity and honor.'

"Officials of states swear to support the Constitution of the United States. If they give aid and comfort to the attempts to nullify laws passed by Congress to carry out Constitution provisions, they are not supporting the Constitution of the United States, and are violating their oaths of office. There are moral obligations in government binding on honest representatives of the people. True, Congress is not compelled to appropriate money to carry on the government. It can paralyze the administration and judicial branches of government by refusing to provide necessary funds by taxation and to make appropriations for carrying them on and thus cause the Federal Government to perish. The honest patriotism of the legislators is the safeguard against such course.

"The present situation as to prohibition in the large cities is intolerable and presents a serious question to the thinking people of the Nation, *viz.*, are they willing to have a few states, through the influence of large cities, and that influence affected by thousands who have come to our shores from foreign countries and who have been naturalized, but insist that their customs and habits shall not be interfered with, nullify the Constitution of the United States, and if they are not willing what are they going to do about it? The seriousness of these questions cannot be underestimated. The seeds of national trouble are implanted therein, and thoughtful citizens may well give pause and meditate thereon.

"Inasmuch as the amendment was ratified by all the states of the Union except two it would seem that opponents of the prohibition laws ought to be willing to have them given a fair trial. After such fair trial if they cannot be enforced any better than in the past, the proponents of these

laws should be willing to have the Eighteenth Amendment modified or repealed and abandon the effort for national prohibition. The general report states: 'There has been more sustained pressure to enforce this law than on the whole has been true of any other federal statute. No other federal law has had such elaborate state and federal enforcing machinery put behind it.' That is true, but no law has had as much propaganda against it as these laws, and while the pressure at times may have been sustained to enforce the law, it is apparent that the pressure was not of the nature applied to enforce other laws.

"Much has been said about the Eighteenth Amendment having been adopted while the boys were overseas, and that the people have had no chance to express themselves upon it. In view of growing opposition to the prohibition laws and the prevalence of this sentiment, it seems to me there should be if possible a referendum which would settle the proposition of whether the majority of the American people favor prohibition as a national policy. There is no provision of the Constitution for a referendum, and a mere straw vote referendum by states or magazines is unsatisfactory. There could be an expression by the people under Article 5 of the Constitution. An amendment could be proposed to the Constitution to repeal the Eighteenth Amendment, and the Congress could provide that the ratification should be by conventions in the various states, delegates to be elected by the people. That would present as clear cut an issue on the subject as is possible under the Constitution.

"The people are the source of power, and on a question of this character, where the discussion has become nation-wide and excludes consideration of other great questions involved in our national political life, the people should have a right to speak and to register their desires. Such an amendment as I have suggested, if submitted to conventions in the states, delegates to be chosen by the people, would find the nation soon engaged throughout its length and breadth in an educational campaign, and such campaign would be beneficial. After ten years of trial, such as it has been, why should the people not have an opportunity to register their feeling on this subject? If the great majority of the American people are against prohibition and say so in the selection of delegates to constitutional conventions in the states, it will be apparent that such laws cannot be nationally enforced. If a large majority of the people declare against repeal of the Eighteenth Amendment, many who are opposed to it will see that the policy of the Eighteenth Amendment is to be the national policy and will adjust themselves to the situation. My firm judgment is that the referendum herein suggested would be the best thing that could happen to assist in settling this troublesome situation. A limit of time should be fixed as to the meetings of the conventions, so that the matter may not be stretched over a period of years, and so that the will of the people may be expressed at substantially the same time. This can be done under the authority of *Dillon V. Gloss*, 256 U. S. 368.

"If it were possible to repeal the Eighteenth Amendment what in the way of a regulatory measure is to take its place? Those who advocate its repeal offer no program. The answers to this question propounded to practically all of those who appeared before us advocating a change or repeal of the prohibition laws brought little help. Some advocated the substitution of the Canadian system. There are as many different systems in Canada as there are provinces, and there is no Canadian system, as such.

"Honorable E. C. Drury, former Premier of the Province of Ontario, was before us, and stated that bootlegging is carried on in the Province of Ontario to as great an extent now as during prohibition days; that there is much drunkenness, and that arrests for drunkenness have not diminished. He stated that the present system in Ontario is not satisfactory; that liquor consumption and crime have increased under government liquor control. Other prominent Canadians are

quoted to the contrary in the papers. Throughout Canada it will be found that there are complaints as to violations of their laws. It must be remembered that under prohibition in Canada licenses upon the payment of one dollar were issued for home-brewing, and citizens were permitted to make wines and beers. Undoubtedly there has been increased sale and consumption of intoxicating beverages in Canadian provinces that have given up prohibition.

"The Bratt system of Sweden which bears some similarity to the Quebec system has been explained before us as an ideal system. The commission has had the benefit of the testimony of our Minister to Sweden and has been fortunate in that Honorable Henry W. Anderson, one of the members of the Commission, visited Sweden during the summer and gave a careful study to the situation. They have presented very fully to the Commission the operation of the Bratt system. It is based on a paternalism which would be rather odious to citizens of this republic. It should be carefully studied, however, if any change is to be made.

"Many of the witnesses before us representing organizations opposed to prohibition insist that state local option is a proper method of control; that inasmuch as the government trusts the state to punish murderers it can trust them to handle the liquor traffic. Others point to the fact that under such local option all the difficulties that arise as to prohibition are found.

"There is no doubt from the experience of this Nation and others that there are tremendous difficulties involved in any control or regulation of the liquor traffic and always will be. No system of control anywhere is satisfactory. Even Soviet Russia is having all kinds of trouble with it. Any restraint of the liquor traffic is regarded by many as infringing on personal liberty, and probably that idea will always prevail. The traffic never can be entirely eliminated as long as the appetite for drink remains. A repeal of the prohibition laws and the Eighteenth Amendment, without some satisfactory plan to take their place, is unthinkable. The result would be chaos. In this high powered age of universal rapid traveling by automobiles on the interstate highways of the Nation, an awakened public would not long submit to the situation that would be brought about by an uncontrolled or state sporadic control of the liquor traffic. Public roads and drunken automobile drivers are not a good combination.

"If prohibition cannot be successfully enforced, I should favor a trial of the system proposed by Commissioner Anderson in his report—which could only be after some modification of the Eighteenth Amendment putting the matter in the hands of Congress. Professor Chafee, of Harvard University, interestingly discusses in the January *Forum* of 1931 a somewhat similar proposal.

"It seems to me, in fairness to a great social and economic experiment, that the enforceability of the prohibition laws should have further trial under the new organization in the Department of Justice; that if, after such reasonable trial it is demonstrated they cannot be enforced any better than they have been in the past, the modification of the Eighteenth Amendment suggested by the Commission should be brought about and the power placed in Congress to deal fully with the subject, that in the meantime, the feeling of the people on the subject should be registered by a referendum on repeal of the Eighteenth Amendment in the manner suggested herein."

The statement by William Squire Kenyon was a shock to many who considered him an absolute "dry." The papers had so classified him upon the publication of the membership of the Commission. He was "dry," but not fanatically so. The press had from the beginning, moreover, based their classification upon a highly questionable premise, the Webb-Kenyon bill against the interstate shipment of liquors. Only an elastic imagination could draw such an inference from that bill, after a close examination of its provi-

sions. The law was in a purely legal sense, justice personified. It might well have been introduced by anyone with an ounce of altruism in his system. A judicial attitude, as was surely his in framing the law, did not adhere to any one side of the question, but considered all sides and drew the just and logical conclusion therefrom. William Squire Kenyon was a "dry" in a personal sense, and his activities during the passage of the Prohibition Amendment, as stated previously, rightly earned him that designation. Justice and a grave respect for the majority opinion of the people were always guiding principles of Judge Kenyon. Knowing that, and realizing that although a reformer, he was a tolerant one, the verdict upon the prohibition question was not startling. The move he suggested has been taken, without the preliminary work that he advised. The problem has not been settled. Lacking in emotional misdirection and fanatical belief, the Webb-Kenyon bill is indicative of the attitude in which the entire liquor prohibition problem must be met and that fact will become increasingly recognized as the years pass. The Eighteenth Amendment has been repealed, but the harmful effect of alcohol upon the individual and its destructive degenerating effect upon the human race can never be repealed. Sooner or later, if civilization is to endure, a way must be found to suppress the liquor traffic. Judge Kenyon's life habits and his utterances upon this question show a clear realization of that fact. That he performed a manful part in the struggle to abate the liquor nuisance cannot be questioned. His disappointment in the failure of prohibition was keen. He clearly saw that the reason for the failure lay in the Harding and Coolidge policy of unconcern over the question of enforcement. These men were not abstainers themselves, and they trusted the enforcement of prohibition to men who did not want it to succeed. After eight years of neglect, no wonder it became a laughing stock. If Hoover's good faith effort to enforce it had come eight years earlier it probably would have been successful. Judge Kenyon believed that at some future time the policy of prohibition would be tried again, and that this time, in the hands of its friends, it would succeed.

"I Have Finished My Course"

The tremendous amount of work involved in the investigation into, and the preparation of the report on, prohibition enforcement, as well as the usual activities of his judicial position, were a strain on the normal efficiency of Judge Kenyon's energetic nature. Work was his habit and the concentration with which he attacked his arduous duties increased that strain throughout the following two years. William S. Kenyon, moreover, continued in the practice of preparing a large number of his decisions during the vacation months in Maine. In a small building about a quarter of a mile from his summer home

Judge Kenyon had fitted up an office and it was here that he toiled alone during the long summer days. It may seem unbelievable but it is nevertheless true that it was his custom to arise at five a. m., and after a light breakfast to go to this office, where he began the day's work before six o'clock. He worked steadily till one o'clock, and then returned home to lunch. By two o'clock he was back in the office for several hours' work before he closed his day in the late afternoon. Such devotion to duty is very rare. It was not necessary for him to work such long killing hours, but he was so conscientious and thorough, so fair and impartial that he gave to every opinion he rendered the "last full measure of devotion."

In the summer of 1933 he approached his vacation with an unusual attitude, welcoming it as a period of relaxation. Even so he continued his work as usual and wrote several important opinions during the last summer of his life. While a matter of utmost concern to his wife and intimates, his weakened condition did not strike him as anything other than the result of slight overwork. However, what William Squire Kenyon considered slight overwork would have been an impossibility for an average man. The summer home to which he came to recuperate his lagging energy was a simple cottage overlooking the east shore of Casco Bay, Maine. A more picturesque spot can hardly be imagined, perched high on the rugged rocks with the swirling tide boiling, foaming and eddying in the fissures and crags below. Sunset across Casco Bay is a thing of glory, while the spray dashing up from the billows below was a source of never ending interest to Judge Kenyon. He loved the spot and it was here with his ever loving wife that he found serenity of soul. Never were two people more devoted to each other. "Oh! Billy," Mrs. Kenyon would often say, "please quit. You've worked so long and so hard. Its time for you to retire so that we can be together the rest of our lives." "Yes, Mary, Dear," he would reply, "I will in a few years more. Our day will come." But duty drove him on and "our day" of relaxation and play that he and Mary J. (Duncombe) Kenyon looked forward to so eagerly never came. When, during the course of a golf match, he was stricken, Judge Kenyon was placed in a room where he might gaze over the charming prospect of that spot. His sudden illness was such a shock to his beloved helpmate that she, too, not at all strong for several years, was confined to bed. The condition of both remained unchanged for five long, interminable weeks, and then a turn for the better came which in the case of Mrs. Kenyon led to recovery. William Squire Kenyon, his great heart taxed beyond its capacity to perform, suffered a relapse and on September 9, 1933, his earthly career came to its close. As that other great American, Abraham Lincoln, whom he admired above all others and strove to emulate, William Squire Kenyon now "belonged to the ages."

WILLIAM S. KENYON STANDING ON STEPS OF HIS SUMMER OFFICE

SEBASCO ESTATES, MAINE.

Chapter Six

Conclusion

"An honest man's the noblest work of God."

—Alexander Pope.

William Squire Kenyon was a man, whose personal appearance gave a direct indication of his true character. He was simple and unpretentious in dress as well as manner. His clothes of excellent quality and fit had none of the "eye attracting stylishness" of a *Beau Brummel;* their fitness to the purpose was unobtrusive and a more subtle and dignified showing of an inherent knowledge of what was proper. He did not attempt to build his personality by a common appeal to externals, for no such building was necessary. Tall and slender, he was of those fortunate men who outshine their habiliments. His clean-shaven features were set off by a pair of piercing and intelligent eyes and a strong and cleft chin. The eyes in their directness and clearness mirrored the soul of the honest, energetic and intensely vital man within. Hard work, his joy and emblematic of the usage of that great energy, had drawn the firm, fine lines, that helped to lift his visage above the commonplace. Not the least, were the short crinklings about the eyes that told of the ability to gain the utmost of quiet enjoyment out of every situation in life's puzzling pattern. A definite quality of optimism, combined with the determination to bring his ideals to fruition, marked Judge Kenyon's features and his actual presence as a man—not hasty nor futile but a man of which humanity and its guiding influence might well be proud.

There were outstanding fine characteristics, not visible but felt, that aided in the designation of William Squire Kenyon. A man of absolute independence of nature, he thought for himself. Guided by a high sense of justice, he attempted and did much that was of benefit to people at large. Absolute unselfishness, too often unusual among public figures, was one more excellent trait. The fearlessness necessary to fight in the face of condemnation for his altruistic purposes was his also. Cleanliness of speech and habit marked him as one who made no sacrifices in maintaining a high code of honor. High as were his ideals, and more successful than many in keeping them highly placed, William S. Kenyon could not but tend toward the reform of those who could not or would not adhere to the same standards. He was classed as a "reformer" by many, but was neither fantastic nor intolerant. A sympathy with and understanding of the foibles and

weaknesses of his fellowmen, barred all such baser attitudes toward reformation. Independence, unselfishness, fearlessness and tolerance epitomized in the briefest possible fashion the man that was William Squire Kenyon. Withal, his high position and many honors, Judge Kenyon did not "lose the common touch."

Judge Kenyon worked for man and humanity and he never forgot that he was within the classification. His contacts with everybody, where the regulations of law did not interfere, were on the basis of perfect equality. His visits to Fort Dodge in the later years of his active life were not spent in aloofness and seclusion. "The Fort Dodge Brain Trust," as he laughingly called it, was formed of individuals to whom a lesser man would have condescended or ignored. He did not exaggerate his self-importance, indeed, his mental processes were such that he minimized his fame, influence and ability. Judge Kenyon was available to all his old friends and acquaintances from the minute he arrived at his sister's residence in Fort Dodge. Discussions and conversations were indulged in on local, state, national and international problems. The Judge did not take the dogmatic attitude in those debates. He was firm in the belief that anyone of his fellow-citizens might be nearer the absolute truth than he. His keen logic and strength of mind were impervious, however, to other than true opinions.

Those brief periods of relaxation were spent not entirely in conversation. William Squire Kenyon had formulated a habit of early rising for the purpose of long walks, and it continued to his last days. He was not generally interested in sports, with the exception of old fashioned horse-shoe pitching and golf, the latter played during his summer vacations in Maine. Many hours in the open air were spent in those wholesome pastimes, pitted against his intimates and acquaintances. Moreover, on the occasions of visits to Iowa he took time to visit his stock farm which he had maintained for years on the outskirts of Fort Dodge.

William Squire Kenyon rose from a bright, ambitious, but relatively obscure, young lawyer in Fort Dodge to a position of national and at times international prominence. Through the many years that saw his elevation from lawyer, to county prosecutor, to state judge, to federal attorney, to United States Senator, and Federal Judge, the principles of life that had been inculcated by a wise father and loving mother, purified through experience and the workings of his truly fine mind, and supported and encouraged by a deeply affectionate and understanding life partner, remained ever constant. While his high ideals may have been enough to mark him above the average, it was his prodigious industriousness in pursuing the logical course indicated by those ideals that made him a prominent figure in American life. Work was a habit with Judge Kenyon, and without anything to do he would have withered and decayed. A characteristic remark at the

time of his final illness gives support to the attitude implied by his great quantity of completed endeavors.

"This is the third or fourth time in my life I have ever had to have a doctor, and I can not get used to this lolling around."

Judge Kenyon's idealism was often attacked, but no one could fairly state that it was impractical or theoretical. Idealism, tempered by an adequate amount of practicability, will always be the foundation upon which the greater good of society will be obtained; that was William Squire Kenyon's foundation. He was called "radical" by some. Such will be the fate of all who ignore constituted, but by no means necessary, custom to cater to all people rather than to a few. The theory of American government may be based upon a party system, but the man of sufficient ability to pursue an independent course shall find his ardent supporters among the people who benefit by his altruism, and shall find his violent attackers among those not keyed to the higher tone of his purpose. There have been many men misconstrued as was William S. Kenyon, but the misconstruction is a reflection not on the Judge, and his fellows in thought, but on those who were possessed by more of the frailties than the virtues of man. Learned, educated and intelligent he thought more of others than he did of himself. His briefs, his debates, his causes and his judicial decisions all had the intent of the greater benefit for everyone. Highly educated and wise in the legal jargon, he was not pedantic. While complicated and "Latinated" phraseology were considered the rightful manner of legal and quasi-legal documents, William S. Kenyon abhorred the indirectness and mystery with which they seemed to be clothed. His opinions and statements were presented in a clear and concise fashion to be read and understood by the average person who was unfamiliar with law terminology. Where the exigencies of the cause required the use of the jargon no one was better qualified than Judge Kenyon, but a display of it never intrigued him.

William Squire Kenyon's purposes were as direct as his speech. Much of the spoils system of American government might have been eliminated if more men, such as he, had been available. Personal preference or personal interest never swayed him from his course of pursuing the greatest good for the greatest number. His probable course of action throughout the days that have passed since his death in 1933 may be conjectured. As a brief survey of Judge Kenyon's life has given the knowledge, one can be sure that a government with the best interests of the people at heart would be the ultimate result of any efforts on his part. He lived, strove, succeeded and died—a man in all the nobler and higher meaning of the term.

In a final summation of this "greatest of Iowans" a few statements and eulogies of those who were his friends and his intimates may serve to give a fuller and fairer picture.

Remarks of a Judicial Brother

Judge Kimbrough Stone, a fellow member of the bench, and a personal friend, expressed the opinion of his immediate associates of the judiciary concerning William S. Kenyon. It was delivered in response to testimonials offered by a memorial committee, including among its members Senator James A. Reed. The court sat in open session on this momentous occasion in St. Paul, Minnesota, and the remarks were entered upon the court record.

"In what little I shall have to say for the Court, I shall be thinking of Judge Kenyon's association as a member of this Court, and of his labor on the Court. The association of a Court of this character, among its members, is unique. It requires great trust and confidence in each other. Our relations are closely confidential. It requires also that there shall be coöperation and helpfulness, but at the same time without loss of individuality. It requires that brothers should differ frankly and sometimes strongly in the conference room, and yet emerge therefrom with no loss, and even with an increase of respect and affection. It seems to me the word which comes nearest to describing that relationship is that of 'family.' Coming to the Court with a brilliant service elsewhere in lines requiring the attributes rather of an advocate than of a judge, a man of less character than Judge Kenyon might have found himself ill-fitted for the associations of a court like this. As a matter of fact he fitted into the situation as a hand into its glove, and there is no member of this Court who served with him that will not always miss his wise counsel, his fine manhood, and his dear friendship. When he passed, this Court and its members truly lost a brother from our family.

"As to his work upon the Court, of course, this has a permanent form in his opinions. I suppose if we were idealizing, we might envison justice as a blinded goddess, who holds the scales into which on one side are put the facts and the law which favor one litigant, and into the other side the facts and the law which favor the other side, leaving it to a sort of law of legal gravity to determine the result; but that is not the way it must be done. Justice must be administered by human beings. Human beings must hold the scales. Human beings must put the facts and the law as they understand them, into the scales. Therefore, the tremendous force of individuality upon the administration of justice. It is impossible for a judge to consciously, or otherwise, separate his individuality from his decisions and his opinions. His opinions and decisions mirror his character. It is with that in mind, I wish to say a word concerning those attributes of character of Judge Kenyon which seemed to me to predominate in his work on the Court.

"I think the outstanding feature of this character was his almost passion for justice and right; but, as Senator Reed has said here so beautifully this morning, Judge Kenyon was not one who set himself up as an arbiter of right. There was nothing of the *ipse dixit* in his make up. His idea of justice was not his own personal thoughts, but of right as he understood it *under the law.* It showed strongly in his opinions. It required an enormous amount of effort upon his part, for he must always, in every case, be sure that he was right on the facts and right on the law. He studied the record of the facts diligently and minutely almost, and if there is one fault that anyone might find in the style of his opinions, it is in the multiplicity of his quotations from and citations of authorities. He wanted to be entirely sure that he was right. Once sure, he had no patience with wrong. Certain of his opinions evince this very clearly. For instance, in the Teapot Dome opinion he lashed out with a scorpion lash, at what he deemed a base wrong.

"There was another element in his character. Senator Reed has beautifully touched upon that too, and it also was reflected in his opinions. That was his humanity. He deeply loved human beings. He tried to understand them, their strengths and their weaknesses, their virtues and their vices. To Judge Kenyon, as a matter of right and justice, it made no difference whether a man were rich or poor, great or insignificant. With impartiality he went along the road made by the facts and law of every case. But his humanity did show both in conference and in his opinions, whenever one of the parties might be financially embarrassed so that he could not, or where Judge Kenyon felt that he might not have been able to have his case fully presented, or whenever, as sometimes happens, untrained counsel might be pitted against the masters of the bar. In all such cases Judge Kenyon was over-careful to see that nothing was overlooked affecting the rights of the man who was at disadvantage.

"In connection with his humanity, let me make part of this memorial a beautiful tribute to him by a noted writer, Reginald Wright Kauffman, who was a fellow summer sojourner at Sebasco, on the rocky shores of Maine, where Judge Kenyon had his summer home, and where I think he loved best to be. This tribute appeared in a Portland newspaper and was in an estimate by Kauffman of several of the people who make Sebasco delightful. The portion as to Kenyon is as follows:

> 'One figure I shall always look for there, now always look for him there in vain; at five in the morning already writing some learned legal opinion in his quaint office—the house that is half a boat and once was boat wholly—at the Store, the intimate of everybody there when everybody was there waiting for the noon mail—on the links throughout the sunny afternoons. I mean the unforgettable figure which all of us who knew it loved so well and so justly; the hair prematurely white, the flowing tie, loose tweeds, wide gestures, the hearty voice, the hearty hand-grip, the heart itself that, worn upon his sleeve, beat with all our hearts, helping us every one, until his last breath was drawn in the Sebasco he cherished; U. S. Senator first, U. S. Circuit Court of Appeals Judge thereafter, William Squire Kenyon . . . .'

"It might be thought that Mr. Kauffman was writing the estimate of Kenyon held only by himself, Governor Kendall, and other noted summer sojourners who gather into Sebasco from everywhere. I am sure he also had in mind to speak for those whom the summer colony affectionately call 'the natives'—those sturdy Maine people who wring hard livings from the rocky soil or from the reluctant, grudging sea. Whether he did or not, those people loved Kenyon as he in turn loved them. I have often heard him voice his affection for them. On Sunday evening, the day after his death and while he yet lay in the loved cottage built upon the shoulder of a great rock which cools its ankles in the sea, there came these fishermen. Men with faces deep reddened by many brutal seas, with great hands rough and calloused by the oars and nets and lobster-pots, and with great hearts bruised by the loss of this friend. They came because they loved him and they wanted to aid the wife crushed by the same yet even greater loss. They stood there with their weather-beaten faces wet with a brine more bitter in its brew than any from their ocean. Surely, I thought, great must be the depth and breadth of the humanity of one who could sit in the seats of the mighty with dignity and effect, and at the same time could unconsciously win and, beyond his death, could hold the love of these sturdy toilers of the sea. That humanity lives in his opinions. It does not stand out in such sharp outline as does his love of justice and his impatience with

wrong, of which I have spoken, for it is something to be felt rather than seen. Nevertheless, its vital, though impalpable, presence is as surely there as is the breath of life in living human lungs.

"This morning the Court received from Mrs. Kenyon a very beautiful telegram in connection with this memorial service. It evidences—because it was entirely personal—the close relationship in our Court family, which, of course includes the ladies of the Court as its better part. That telegram is of too personal and sacred nature to be made part of any public memorial. However, it is proper that the Court should recognize it on this occasion with the hope that something may be said of comfort to her. Possibly, this purpose may be fulfilled by relating an experience at Sebasco after Kenyon passed.

"I think I must always remember that Sunday evening at Sebasco following Kenyon's going. Just as twilight was darkening into night, I went out on the cottage front porch, which all but overhangs the sea, to bid the last of those departing fishermen good-night. There was no word from any of them. They spoke their feelings through the firm grip of mighty hands. Silently they went down the steps and disappeared into a grove of somber spruce. Filled with the thoughts and emotions their being there had aroused, I turned and faced the soft, salt-sweet incoming breeze. My eyes wandered over the darkly shimmering water out to where a long narrow island had faded to the semblance of a low-lying bar and then beyond to the glorious, flashing evening star. Instantly, I knew that just such a scene as this it was which voiced its beauty and its message through the words of Tennyson. Gripped by the sheer beauty of the thing, I too seemed to get its message. I seemed to know that out beyond the island, like a bar, and out, far out beyond that glorious friendly star, with One who gave his all for humanity and whose best name is Compassion, must be this friend of mine who so loved humanity—there, looking compassionately down on these fisher folk stumbling their heavy hearted way homeward through the dark, and now in infinite love, upon her whose grief had worn her into troubled sleep.

"In response to the suggestion of Mr. Kelleher and others who have presented the memorials here, an appropriate order will be made as of this date, making these resolutions a part of the permanent archives of the Court. Out of further respect for Judge Kenyon, the Court will now adjourn for the day, until tomorrow morning at ten o'clock."

Mr. Kelleher, mentioned in the preceding paragraph, was a member of the law firm headed by William Squire Kenyon. He said, among other things: "Will Kenyon's place is secure in the hearts of those in whose struggles and aspirations he shared. After all, the truest measure of a man is the place he builds for himself day by day in the esteem of those with whom he lives and mingles. Without exaggeration it may be said of Will Kenyon that his life and personality were of that order, that in this commonwealth he had more friends and well wishers than any other."

Among the innumerable friends and well wishers were those whose words are hereinafter recorded:

"The sudden and unexpected death of Judge William S. Kenyon of the circuit court of appeals of the eighth circuit, has removed from public life one of our most distinguished and outstanding characters.

"As United States Senator, as circuit judge, and in all the relationships of life he met every obligation of high minded citizenship.

"My acquaintance with him is of many years standing, and I feel his death as a personal loss."

HOMER S. CUMMINGS,
Attorney General.

"Judge Kenyon was a man of fine integrity and intelligent devotion to the cause of agriculture and to the public good. In the senate and on the bench his services were of a high order."

HENRY A. WALLACE,
Secretary of Agriculture.

"Following my election, Judge Kenyon sent me the friendly admonition to be on constant guard against the 'insidious social lobby' which, he said, was the most powerful and silent force operating in Washington, D. C.

"His solicitation for me was solicitation for Iowa, which he served in the senate with honor and distinction.

"The 'farm bloc,' a nonpartisan combination of senators from agricultural states, was his idea, and the consequences of its course of action are part of a notable history."

LOUIS MURPHY,
United States Senator from Iowa.

"I am shocked at the unexpected death of Judge Kenyon. For years he has been one of the outstanding, forward-looking public citizens of the nation, and his death is a distinct loss to the forces of progress in better government in Iowa."

CLYDE HERRING,
Former Governor of Iowa.

"The news of the death of William S. Kenyon was a shock and grieves me very much. Judge Kenyon was a lovable character, gifted by nature and habits of concentration, which with his devotion to people made him a valuable public servant. In the passing of Judge Kenyon, the nation and state has lost one of its most respected citizens. To me it is a personal loss, as there existed between us a sincere friendship."

JOHN HAMMILL,
Former Governor of Iowa.

"I profoundly regret the death of Judge Kenyon. It was my privilege to know him intimately for over a third of a century, and the more I knew of him the more I came to appreciate his sterling qualities. His passing is a great loss to the state which honored him by electing him to the United States senate. It is a loss as well to the nation since, in the senate, he soon became one of the country's leading political figures. There he fought fearlessly for the rights of 'the man in the street.' He was one of the few leaders who stood out against a declaration of war in 1917, and although at that time the wisdom of his course was seriously questioned, today we do not question his judgment. Would that there were more men like Judge Kenyon in our legislative halls. Had there been in the past we would not today have so many ills afflicting the body politic. With men of his integrity at the bar, in the halls of congress and on the bench the nation is safe."

EDMOND HEELAN,
Bishop of the Catholic Diocese of Sioux City, Iowa.

Eulogy of an Old Friend

The final tribute was paid to the great Iowan on Friday, September 15, 1933, in the First Congregational Church at Fort Dodge. In a simple ceremony at the church of which he was a member, all who held him dear expressed in their various ways their deep affection. The one who loved him dearest and best was not there, for Mrs. Kenyon was confined to bed, overcome by her loss. Former Governor N. E. Kendall delivered a stirring eulogy.

"As we assemble in this auditorium this afternoon our sky is overcast and clouds and darkness are 'round about us.' This is an hour when the heart overflows and the lips are impotent. I am oppressed by that embarrassment as at his request I undertake in this sanctuary a brief and imperfect tribute to the dear friend so suddenly summoned to the undiscovered country.

"Over a period of more than thirty years, I knew him intimately and loved him deeply. He was a noble personality—the noblest I ever encountered in private life or public station; so good, so kind, so true, so patient, so sympathetic, he fastened me to him with hooks of steel.

"Now he is gone never to return, and a vast constituency is bewildered and desolate. The world seems less stable, less permanent, less secure, than when he was here.

"The Westminster memorial which Pope inscribed upon the tomb of an eminent Englishman may be borrowed here as perfectly applicable to the citizen and lawyer and senator and jurist to whom we say a sad farewell today:

'Statesman, yet slave to truth; of soul sincere,
In action faithful, and in honor clear;
Who broke no promise, served no private end,
Who sought no title, and who lost no friend.'

"More than any man I have ever known, Kenyon's busy and eventful life in its entirety was a harmonious answer to the sublime inquiry propounded to his people some thousands of years ago by the prophet Micah:

" 'What doth the Lord require of thee but to do justly, to love mercy, and to walk humbly before thy God.'

"In any analysis of his character that may be attempted, it must be remarked in the first instance that as a husband he was an ideal for all to emulate; for the sacred obligations he assumed at the hymeneal altar exemplified themselves as fixed and uniform habits of his daily walk and conversation.

"The bereaved consort for whom our hearts are bleeding as she sits yonder by the Atlantic sea in loneliness and sorrow—the brilliant and charming and beautiful girl he married in the early morning of his radiant youth and loved to the very end with a love that passeth understanding—only those who witnessed his sleepless solicitude can know how carefully, how gently, how tenderly he ministered to her throughout the endless years of her weary affliction.

"He was a man of varied activities. He had been prosecuting attorney of this county. He had been a state judge in this judicial district. He had been an assistant attorney general of the United States. He had been chief counsel for the Illinois Central Railroad Company.

"He had been a senator in the national congress. He was one of the justices of the federal circuit court when he died.

"In these diverse relations he had contacted all sorts and conditions of men; the virtuous and the vicious; the good and the bad; the high and the low; the educated and the unlettered; the rich and the poor; the honored and the obscure; and yet from all this promiscuous association he emerged as unspoiled and unsoiled as the innocent infant in its mother's arms.

"I said the other day that he never conceived an idea or uttered a word or harbored an impulse which might not, with absolute propriety, have been proclaimed in the most fastidious presence. And this is literally true, so pure was he in thought, so chaste in speech, so restrained in feeling.

"And yet withal, he was a virile man's man with a robust appetite for all athletic sports, and a vivid relish for the bizarre, the grotesque, the ridiculous as they unfolded before him. He was a genial soul, sociable and versatile and companionable, wtih a keen appreciation of harmless badinage and playful wit; but 'no spark from his humor ever was a cinder in the eye of his friend.'

"His career at the bar, on the bench and in the legislature was signalized by consummate ability, by inflexible integrity, by unwavering consecration to the immediate duty committed to his discharge.

"He was never assertive in imposing his opinions, but he could not be induced to surrender a conviction once it possessed his deliberate judgment. What courageous independence he exhibited; what devotion to principle he manifested; what unbending resolution he displayed; what a glorious championship he offered for the forgotten man in his misfortune and disaster—these are the outstanding qualities which must ever distinguish him in a degenerate era of conciliating and temporizing and time serving.

"His life had not been exempt from grievous disappointments, but his uniform outlook was refreshingly wholesome and optimistic. Although wrong might triumph temporarily, he was sustained by an unyielding faith that right would eventually conquer.

"If he believed in a cause he never hesitated to espouse it, even though it were unpopular and disparaged and defeated.

'He never turned his back, but marched breast forward,
Never doubted clouds would break,
Held we fall to rise, are baffled to fight better,
Sleep to wake.'

"He knew that nothing morally wrong is politically right, and he would never compromise with error in the hope of additional support at the next election.

"He loved his city and his state and his country, and he demonstrated that love by the unfaltering fidelity with which he served them to the uttermost.

"He has been classified as an idealist. He was not, but a humanitarian whose aggressive idealism struggled to transmute itself into practical reforms and effective statutes for the upliftment and the betterment of the common multitude of men.

"He was a positive force for righteousness, and his influence for law and order, for justice tempered by mercy, for that progress which is the enlightenment and elevation of all—this will be sorely missed by all the agencies which seek the improvement of mankind.

"He was generous beyond his resources in responding to the appeals of helpless poverty, and he never examined too critically to ascertain if the subjects of his charity were worthy or otherwise.

"He never permitted his left hand to know the benevolences his right was constantly bestowing, and his unostentatious philanthropies extended to every unfortunate who approached him in distress.

"He was the most modest and unassuming of men, always underestimating his own capacities, and always surprised that he should be selected for the official preferments which were conferred upon him.

"When a Republican president tendered him the navy portfolio in his cabinet he declined the distinction, alleging naively that he had no qualifications for the position.

"He had the singular facility of enlisting the confidence of his fellowmen of all ranks and races, and so for years he has been the man most unanimously respected, most implicitly trusted, most universally esteemed in Iowa.

"One day recently he read to me these lines:

> 'Let us develop here an ideal state, dedicated to enlightenment, to morality, to justice; a state in which there shall be neither the reproach of enforced idleness, nor the misery of unrequited toil; neither the vulgar display of swollen wealth, nor the bitter distress of cruel want; neither the contempt of the strong for the weak, nor the hatred of the weak for the strong; neither the scorn of opulence, nor the despair of penury; neither the abuse of power, nor the denial of service; an approximately perfect state wherein the brotherhood of man supplements the fatherhood of God.'

"I venture to believe that the foregoing extract quite accurately expresses the ultimate objective which Senator Kenyon cherished throughout his earthly pilgrimage.

"In a casual conversation with him last August I happened to recite these majestic phrases with which Saint Paul has enriched the literature of our world:

> 'Whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report, if there be any virtue and if there be any praise, think of these things.'

"There in the unrivaled prose of the greatest of all preachers was sketched in epitome the hopes, the aspirations, the prayers of William S. Kenyon. Knowing the man as we did, we are profoundly convinced that always and everywhere he endeavored to fashion his life after the apostle's standard.

"The advantage to the young generation of such a man's example is of incalculable value. Fortunate it will be for them if they

> 'Learn his great language, catch his clear accents,
> Make him their pattern to live and to die.'

"In a supreme agony of spirit the tortured Job proposed to his tormenters the insoluble mystery—'If a man die, shall he live again?' The question recurs to us after the elapse of centuries, and it remains unanswered.

"Are Kenyon's splendid faculties slumbering somewhere in decadence and oblivion, or are they engaged in another forum where an 'ampler ether, a diviner air' are more conductive to their

larger exercise? We do not know. But we may be comforted by the certainty that no man was better prepared to die than he, nor any more assuredly entitled to eternal life if that be foreordained.

"He had lived so usefully, so helpfully, so blamelessly, that his premature passing becomes an infinite tragedy unless he has been translated to a loftier arena as the spirit of a just man made perfect on high.

"Kenyon believed beyond all doubting in the immortality of the soul, and his attitude toward death illustrated the philosophy of his religious beliefs. His theory was that no man should invite it, or fear it, but should submit to it unresistingly 'as one who wraps the drapery of his couch about him and lies down to pleasant dreams.'

"His last days were remarkable in his complete and almost joyous acquiescence in the harsh decree of destiny which has finally removed him from our comradeship. In the encircling gloom of this September day I close my eyes and I envision him again as he lay when I last saw him; calm, serene, cheerful, awaiting the pallid messenger with the inverted torch whose advent cannot be averted or postponed.

"He had fought a good fight, he had kept the faith; he was ready for the Father's benediction —'Well done, good and faithful servant, enter thou into the joys of thy Lord.'"

The Minister's Final Word

Reverend Peter Young, pastor of the First Congregational Church addressed the assembled friends and relatives in concluding the services:

"We honor the memory of a great and good man this day. William Squire Kenyon was a man of no mean attainments, yet he was modest, kindly and courteous. He possessed wisdom that comes of hard work, courageous living, and insight into the truths of life. And above all he had a fine sense of humor. He was, indeed, a man of character and good conduct in all the manifold avenues in which his life was run. Therefore, he leaves behind him a wonderful heritage of courage and joy. He deserves well of those who knew him in personal contacts and in his public career, as it moved forward from the court house on Central avenue, to the senate chambers in Washington, and to the halls of justice in the middle west. The ancient writer of the Book of Wisdom, in speaking of honorable men in public life, said: 'Their bodies are buried in peace; but their name liveth forevermore.' The name of this great and good man will be remembered in this community, and in our state and nation, not only by his contemporaries, but also by their children and children's children, for he inscribed it indelibly on the mystic fabric of American life.

"It is my purpose here today to lay stress upon a few of the personal qualities of Judge Kenyon as I have observed them and as I think they account, in large measure, for his remarkable life and career.

"There was, first, that sense of humor. Who hadn't observed the twinkle in his eye, the gracious smile, and the hearty, genuine laugh? Behind all that was the spirit of laughter and joy which was forever bubbling over in his life. He was not in the habit of telling funny stories as such, but he was an adept in relating comical anecdotes about the great and near great with whom he came into contact. It was always Senator this, or Judge that, or Mr. So-and-So whom he detected in a ludicrous light, and the incident was worth the telling, as Judge Kenyon told it. He was too much the gentleman to make the subject of his anecdote appear in an unworthy light, but he did place him in an amusing position, and those who were within hearing joined him in a hearty laugh.

"I found him in his best vein of humor at dinner parties. He loved to entertain small groups at dinner, and those who shared such intimacies with him will remember him as a gracious host and engaging conversationalist. He generously shared his wealth of wisdom and experience with his guests. The very last evening he spent in Fort Dodge, I was among his dinner guests and I shall long cherish the memory of that fellowship and the happy spirit he manifested. He gave one no inkling of this impending sorrow.

"And this leads me to mention another personal quality of Judge Kenyon; namely, his faithfulness and courage. From his cheerful and gay outlook on life, his public career of service, and his splendid physique, no one could have imagined the woes which beat upon him. But the distance between humor and pathos in human life is never far. Generally, we humans are apt to feel that those who have made for themselves a conspicuous place on the stage of public life, are never confronted with humdrum routine, or with 'The burden of the world's woe,' or with the ills and poignant disappointments which fall to our common lot. Judge Kenyon knew what they were in full measure. He knew what is was to suffer and endure. Who would have guessed that beneath that gay exterior of his there beat a heart which no trial or sorrow could daunt? And from his own lips no one learned of his sad experiences. It was a faithful and courageous soul that had its home in Judge Kenyon's body.

"I recall once when I got by his secretary of many years, and sat alone with him in his inner office. He seemed that day to have a heavy weight on his heart. There was no mention of his trouble, and I don't know what it was, but as he talked a lump rose in his throat and tears came to his eyes. Were you ever in the presence of a great and good man who broke down that way? Nothing is more subduing. Nothing leads one more to realize our common humanity. It is recorded that 'Jesus wept.' Some of us will remember that as the shortest verse in the Bible; rather we should remember it as a revelation of his humanity and of how the sadness and sorrow of life weight upon all alike. Judge Kenyon was faithful to life as it came upon him, and he was courageous beyond the knowledge of almost all of us.

"Another personal quality which I would mention was his plain, common honesty. Judge Kenyon simply could not cheat even if cheating a bit involved the prolonging of his life. He gave himself without stint to his heavy and exacting duties. He was an honest worker and left behind him enough inspiration at that point to last us the rest of our days.

"He was also honest in his outlook upon American life. How free he was of cant! Never did he permit his thinking or his service to his country to take on the character of sham and unreality. If party policies appeared to be mere vote-catching devices, he would have nothing to do with them. He was a progressive in the best sense of that much-abused word, because he was honest with himself and with the American people. My own view of American politics has been shaped pretty largely through my conversations with Judge Kenyon and with the brilliant and able assistant he had in his office these last two years, Edward G. Jennings, and I think I have a more intelligent outlook upon American life because of my contacts with them.

"And what honesty he manifested in his judicial opinions. He was the peer of Justice Holmes in the manner in which he broke away from the letter of the law, if he saw it running counter to human welfare, to declare its essential spirit in the light of present-day living.

"I suspect that this rugged honesty, this moral integrity was what led him to live such a Spartan existence as he did. He was one of the common people and scorned any ostentatious display which put others to a disadvantage. Anything that was unreal, make-believe, or shoddy, came in for his righteous indignation; on the other hand, anything real, true, and just, had his willing and able support. He was an honest man, and I emphasize this because Judge Kenyon felt

the country needs more than anything else just now plain, honest character. Last spring he spoke in a church in Webster City and the impassioned plea he made there for personal and social righteousness in American life carried tremendous weight because the hearers all realized he knew what he was talking about.

"There is one other personal quality I want to mention and that is his religion. Born in a parsonage when his father was pastor of a Congregational Church in Elyria, Ohio, he caught there the meaning of religion and it never left him. He was devoutly religious. He came into the presence of God as a humble servant. He had a wide and intelligent reading knowledge of the Bible, as his public addresses revealed. How often did he speak to groups fathered in churches! And never did he fail to pay a sincere tribute to the meaning of religion in his own life and for what it might mean in all the affairs of men. His father and particularly his mother, of whom he always spoke in the highest terms of endearment, were praised by him for the religious influences they cast about his life.

"He was a loyal member of the church. Never did he forget to support it liberally. Though his public work took him away from Fort Dodge most of the time. When he was in town, and no urgent work prevented, he was found here among the worshippers on Sunday. His presence ennobled our fellowship, inconspicuous as he tried to make it. One Sunday, I had printed on our bulletin these inspiring lines under the caption, 'This Is My Church':

'Here through beautiful services I come close to God and to my human comrades in worship.
'Here in many ways I learn the truths by which I may live a brave, happy, and useful life.
'Here I gain the strength by which I become that which I have learned I ought to be.
'Here I find comfort in my sorrow, courage in my struggles, joy in my victories.
'Here I come into union with Christ, my Master and Friend.'

"He commented on those lines after the service and commended me for using them. Probably he got more out of that quotation than he did out of the sermon. But he was a generous listener, and nothing of worth escaped him.

"He shall be missed, because his seat is empty. Yes, we shall miss him true friend, great heart, faithful soldier in a great cause which does not end today. But all of us will go farther because of him, catching something of his own greatness and goodness, and carrying life forward to that time when things he lived for and stood for so gallantly shall be recognized for what they are everywhere among men.

"His memory is sacred to his family and all the rest of us who knew him. Therein is treasured for us all the deep and holy experiences we have had with him. God help us to be worthy of him, to match his life with deeds, not words."

Kenyon
(Kenan)

ARMS ~ Per bend sable and azure, three bars or.
CREST ~ A lion rampant azure.
MOTTO ~ *Nostra quae fecimus.*

Duncombe

ARMS ~ Argent, a chevron ermine, between three talbots' heads erased proper.
CREST ~ Out of a ducal crown or, a horse's leg sable, hoof argent.
MOTTO ~ *Fidelitas vincit.*

Duncombe - Williams - Squire
Family Histories

Duncombe

THE Duncombe name is Norman in origin, and is a derivation of the patronymic D'Engraine. The latter is obviously a locality designation, a development of the surname borne by William and Richard de Ingen, of Ingen or Engen, near Boulogne, France. These two men were members of the conquering forces under William of Normandy, in 1066, and were rewarded for their services by grants of property in and about the county of Bucks, England.

Since the Doomsday Book listing of Richard de Ingen as the possessor of a barony in Bucks, the name has undergone many changes. D'Engraine, the first alteration, was still French in its entirety, but later forms show the gradual growth of the Anglicized version that we know. These further variants are D'Ungun, Dungun, Dungeon, Dungeom, Dunscombe, and Duncombe, in a more or less chronological order. The latter two, Dunscombe and Duncombe, were, if not the sole, at least the most common orthographic forms known in England from the eighteenth century on. It is believed that bearers of any of the listed variants are descendants of Ralph D-Ungun, grandson of Richard de Ingen, whose coat-of-arms was as follows:

Arms—Argent, a chevron ermine between three talbots' heads erased proper.
Crest—Out of a ducal crown or, a horse's leg sable, hoof argent.
Motto—*Fidelitas vincit.*

The Earls of Feversham are Duncombes, and the Lords of Brickhill are Dunscombes, all from the vicinity of Bucks and descendants of the aforementioned man. The Lord Mayor of London in 1667/69, was Sir Charles Duncombe, of Bucks origin.

THE FAMILY IN AMERICA

I

SIR CHARLES DUNCOMBE, a surgeon by profession, was undoubtedly born in England, but when and where is unknown. It is supposed that he came to New England in 1730, landing at the port of Boston. His transfer of residence from Great Britain to the colonies seems to have been coupled with a transfer in allegiance. He saw at an early date the justice of the American Revolutionary cause, and donated to it, out of a splendid financial reserve, a sum totalling more than ten thousand dollars. The annals of Boston do not in any instance record his arrival, residence, or marriage, and the date of his death has not been ascertained. Among his issue of four sons and one daughter was,

II

CHARLES DUNCOMBE, who was born May 5, 1747. At an early date he moved to Connecticut, where he married. The Revolutionary War began during his residence there, and Charles Duncombe gave in actual soldierly service the support that his father gave monetarily. Shortly after 1777 he and his family moved to Stamford, Delaware County, New York, where they entered upon farm lands, and where Charles Dunscombe died.

Married Mary Treadwell.

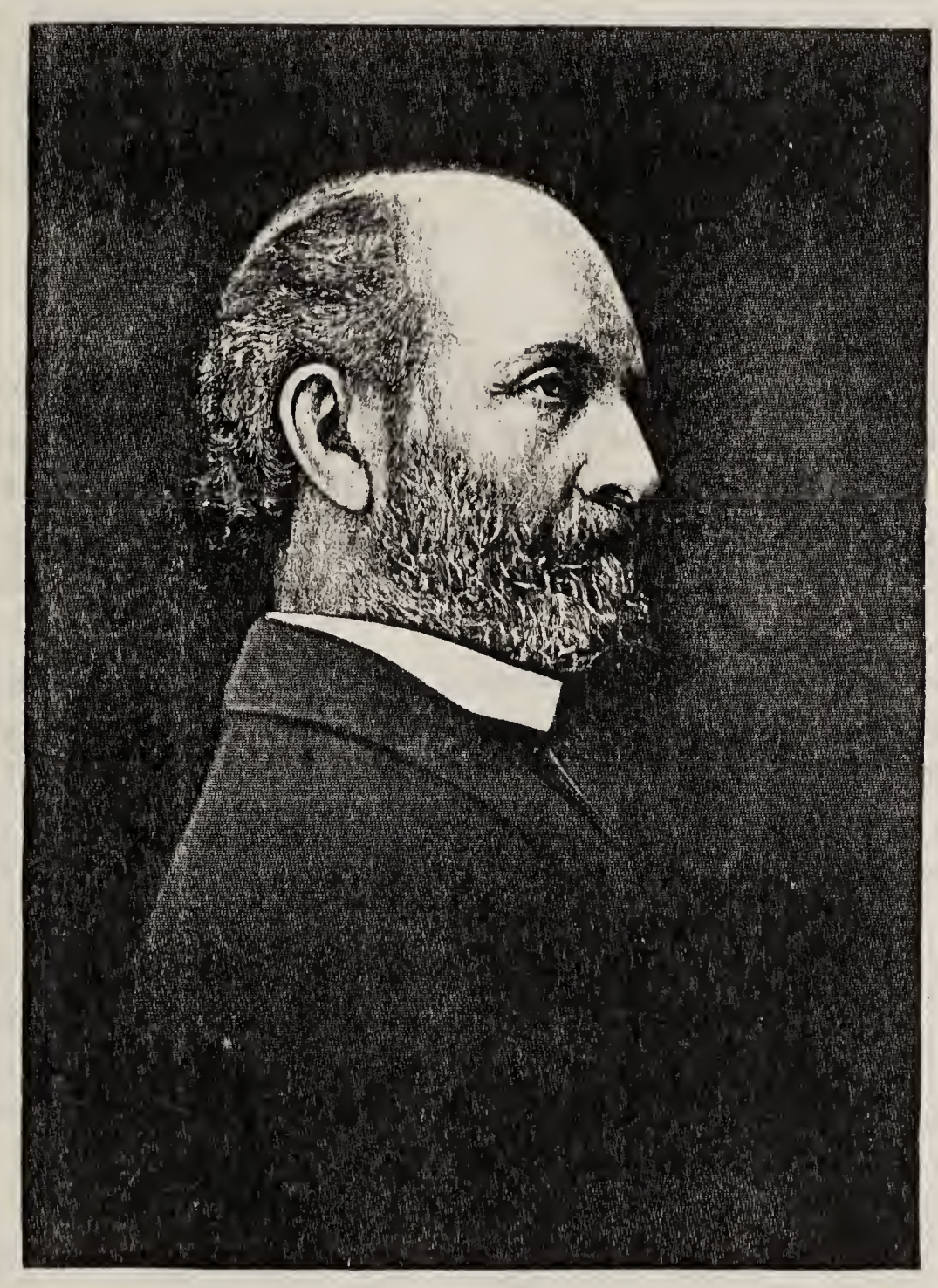
Issue, among five sons and one daughter,

David Duncombe, of whom below.

III

DAVID DUNCOMBE, the third son, who was born March 5th or 13, 1777. Born as he was in those days of strife, a certain warrior-like inheritance was to be expected; an expectation that was fulfilled upon his enlistment during the War of 1812. David accompanied his parents when they removed to New York and there settled down to the business of farming when he reached a suitable age. For more than thirty years he resided in Stamford, and in May, 1830, he and his family decided to change their environment, and took up their residence at French Creek Flats in Amity Township, Pennsylvania, where, after a brief period of six years, Mr. Duncombe died on February 11, 1836.

Eli Duncombe



J. J. Drummond

Married, January 28, 1802, in Stamford, Delaware County, New York, Phebe Nichols.

Issue:

1. *Eli Duncombe,* of whom below.
2. Almond Duncombe, born in Stamford, New York, April 16, 1807; prominent in local affairs at Amity, Pennsylvania; town treasurer for fourteen years; justice of the peace; died April 21, 1883; married, January 11, 1830, Frances Evaline Grant; issue, two children.
3. Charles H. Duncombe, born January 31, 1812, in Stamford, New York; died September 15, 1879.

IV

ELI DUNCOMBE, son of David and Phebe (Nichols) Duncombe, was born January 5, 1804, at Stamford, Delaware County, New York. Living on a farm, at what was the frontier in those days, educational opportunities were scarce. The young man persevered in his quest, however, and succeeded so admirably that in 1824 he began the study of medicine under the tutelage of a cousin, Dr. C. H. Duncombe, of St. Thomas, Canada.

What progress he made in his chosen profession is unknown, for his studies were terminated when he accompanied his parents to Amity Township, Pennsylvania, in 1830. At Amity, he took over practically the entire management of his father's lands. Soon his influence was felt throughout that township and that of Union, and it was said of him, "his counsel was sought on all subjects of public note and where arbitration could prevent litigation, few if any equaled him in adjusting difficulties." This ability to reason and placate won him many elective offices in the town administration at Wattsburg, where he was situated after the death of his father.

Aside from his activities as a farmer and a member of the town government Mr. Duncombe found and took advantage of opportunities to keep abreast of the times through study. His early educational handicap made him an appreciative reader of good literature. He was not strictly catholic in his tastes and consequently developed a full, rounded personality based on a thorough conning and comprehensive study of all that was best in the fields of progressive, practical and historical writing. He encouraged at all times any intellectual pursuits on the part of his children. Mr. Duncombe was, as well, an earnest and constant church attendant in his home town.

Died May 15, 1877.

Married, in 1827, in Stamford, Delaware County, New York, Selina Champlain.

Issue (among six children, two of whom died in infancy):

David Duncombe, who married and had issue, seven children.
John Francis Duncombe, of whom below.
Phoebe Jane Duncombe; married W. T. Everson, of Union City, Pennsylvania; issue, two children.
William C. Duncombe, born in 1837; died in 1870; married and had issue, two children.

V

JOHN FRANCIS DUNCOMBE, son of Eli and Selina (Champlain) Duncombe, was born October 22, 1831, in Erie County, Pennsylvania. Handicapped, as was his father, in the pursuit of educational advantages, he learned early the value of concentrated study. All during his boyhood, adolescence and young manhood Mr. Duncombe, lacking ready financial aid, was forced to alternate a spell of work, usually during the summer, with a period of study in winter.

Deriving as much as possible from the district schools of the vicinity, John Francis Duncombe went to Meadville, Pennsylvania, to make his preparations for college entrance. After a few months of preliminary study he matriculated at Allegheny College, intending to qualify for the legal profession. Varying the original procedure he found it necessary to teach at nearby public schools during the winter to meet the expense necessary for college attendance. He was graduated after four years from Allegheny College, having in the interim spent some time at Centre College, in Danville, Kentucky. It was soon apparent that Mr. Duncombe had not wasted his time, for at the age of twenty-two, shortly after leaving school, he was admitted to the bar in Erie County.

The practice of law in his native state was carried on successfully for one year, at the end of which time the pioneer spirit of his ancestors urged him to travel westward. Coupled with this was the natural reaction to the loss of his wife. Traveling overland to the practically virgin territory of Iowa he arrived there in 1854. Almost his first act was an example of the great versatility of the man. In this new land, on July 4th of that year, he surveyed and planned the site of a city, at the Raccoon Fork of the Des Moines River, and named it Austin in honor of one of the early settlers. He made known his profession at the earliest moment, but in those frontier days with a comparatively small number of inhabitants the demands upon his legal knowledge were not too exacting to forbid other enterprises. A few years later Mr. Duncombe entered into a new phase of endeavor for him, that of editing a newspaper. *The Sentinel of Fort Dodge,* was the first journal in Iowa, and it needed an editor. The accomplished young man, John Francis Duncombe, qualified in every respect for the position. In his editorial work, Mr. Dun-

MARY AUGUSTINE (WILLIAMS) DUNCOMBE

combe made use of a natural and acquired ease of expression and an indomitable courage. His ability to write his thoughts clearly and forcefully, thoughts that were formed by no uncertain mind, led in later years to his position as editor of the *Fort Dodge Democrat.* As a natural course of events in those days, every man was expected to be on call for military duty in subduing the renegade Indians of the neighborhood, and Mr. Duncombe was prominent in his soldierly functions.

In 1857 occurred one of the most bloody massacres in the history of Iowa, the awesome event at *Spirit* and *Okoboji* lakes. The news reached Fort Dodge soon after, three companys under the command of *Major William Williams* leaving immediately for the lake to see if they could gather in the culprits. In direct command of Company B was Captain John Francis Duncombe. He was ill at the time, and the weather was the worst that had ever been experienced in Iowa to that date. Captain Duncombe, with the unwavering courage he had evinced many times before, kept ever on the alert even though ailing. During the course of the journey he accepted from one of the men what was supposedly medicine, but in reality almost deadly poison. With the aid of some members of the company he was able to fight off the deadening effects. As Harris Hoover, a member of the expedition said in an article written some years later: "We naturally expected that Captain Duncombe would resign in favor of Lieutenant Stratton and return to Fort Dodge; but the next morning he was again on duty and insisted on resuming his command and persevering in its arduous labors."

The dogged determination of the man was inspiring, and only a few hours later he proved again his absolute fearlessness. A pair of scouts had been sent out by Major Williams to spy out any Indians that might be still about. They, trained frontiersmen as they were, forgot their duty so far as to stop and shoot at some beaver. Captain Duncombe hearing the shots thought they had spotted some Indians and proceeded immediately and alone (in the direction of the shooting) to intercept them. Luckily for him, no doubt, he came upon only the delinquent scouts. Speaking of the incident later, in a speech on the Hamilton County Court House steps on August 12, 1887, Mr. Duncombe said: "Major Williams gave me a severe reprimand for needlessly exposing my life. If this reprimand could have been taken by a phonograph, and the picture of the scene with a kodak, it would have been more amusing than I thought it was at the time. Some things he said to me seemed comical. He was at the boiling point with rage, and those who ever knew him will understand what that implies. I remember, after saying a few severe things to me in a loud, angry tone of voice, he demanded, 'did you expect to whip all the damned Indians yourself?' I received my reprimand in silence, and two years after took my revenge by marrying his daughter."

The expedition continued on its, what later proved to be, fruitless search. The weather was, as mentioned before, terrible. Snow drifts from two to eight feet deep were encountered by a group handicapped by lack of food and the wherewithall to keep warm. To cap it all a storm broke. As Captain Duncombe said in the same speech on the court house steps: "That was the most remarkable freeze and the worst storm I have ever seen in April in the forty-three winters I have lived in Iowa."

Half frozen, weary and unsuccessful the three companies returned to Fort Dodge to be welcomed as heroes after enduring all the tortures that cold and snow and wind could inflict. Still quoting Mr. Duncombe's speech, he said in conclusion: "After a residence at Fort Dodge of about forty-three years, during which time I was constantly associated with pioneers, men who had gone hundreds of miles beyond railroads, friends, relatives and home, I say without fear of contradiction, that these men and their wives have made Iowa what it is today and deserve the grateful remembrance of all her people, deserve to be honored and loved by those who now enjoy the rich reward of their labors." Such were the words commemorative of the deeds of the men of his company and allied companies, and while he was too modest to place himself among those he considered, there indeed was his rightful place.

The fateful spring of 1857 behind them and the Indians peaceful, for a while at least, the citizens of Fort Dodge turned to every day activities. The resourcefulness and courage of Mr. Duncombe in the following days of calmer thought began to receive their rich reward from grateful townspeople. Possessed of humor, quick wit and excellent oratorical ability, as well as other qualifications, he was elected State Senator in 1859, 1860, and 1862. He rendered service of such calibre that he was returned to serve in the State House of Representatives from 1871 to 1879. A member of the Democratic party, he rose to leadership in the state, and at the Democratic State Convention in September, 1884, he was permanent chairman. As William H. Fleming said in an article in the *Annals of Iowa:* "Duncombe, one of the strongest men the Democratic party of Iowa has ever had among its leaders . . . ."

Aside from the political honors he enjoyed, John Francis Duncombe attained prominence in his profession of law and in industrial affairs. When the "Iowa Pioneer Law Makers" was organized, February 25, 1886, he was elected the president. As attorney for the Illinois Central Railroad he gave more than adequate service for thirty years. He served on various non-political commissions, such as the commission to erect the Lake Okoboji Monument, and the Iowa Columbian Commission of 1892 to 1893. Considering all these activities of a full and eventful life, it is surprising to learn that he was a large farmer, dealer in real estate, coal operator and manufacturer of gypsum products. And still further he, remembering his early struggle for education, maintained a more than casual

interest in education both local and state wide. For a period of eighteen years he was a member of the board of the Iowa State University, and lecturer from 1881 to 1889.

It might be well said of John Francis Duncombe that "mortal man could do no more" and do it as successfully and as consistently. He led indeed an active, useful life.

Died, at Fort Dodge, Iowa, August 2, 1902.

Married, first, Carrie Perkins, who died in 1854, without issue.

Married, second, in 1859, *Mary Augustine Williams.* (See *WILLIAMS.*)

Issue:

1. *William Duncombe*
2. Charles Duncombe.
3. *Mary J. Duncombe,* of whom below.
4. Gertrude Duncombe.
5. Augusta Duncombe.
6. Frank Duncombe.

VI

MARY J. DUNCOMBE is the daughter of John Francis and Mary Augustine (Williams) Duncombe.

Married *William Squire Kenyon.* (See *KENYON.*)

Williams

THE name Williams is prominent in the list of patronymics of the British Empire. From Scotland, Ireland, England and Wales come many bearers of it; particularly from Wales. The cognomen devolves from a Welsh word meaning "sentinel" or "watchman." It is indeed to be deplored that the records in America are lacking in the completeness necessary to establish the Welsh lineage of the member of the family under consideration. It is unfortunate, because Welsh law was such that no man could claim to be a freeman and possess land unless he could give his pedigree for nine consecutive generations. With the missing records found and examined no doubt the ancestry of *William Williams* could be traced back well into the fifteenth century. As it now stands the American founder must be considered the first of his line. All that is known of his parentage is that his father died in 1822, in Huntingdon, Pennsylvania.

William Williams' brothers were:

Judge Joseph Williams, who was born in 1801, at Huntingdon, Pennsylvania; was associate Justice of the Supreme Court of Iowa Territory, 1838-1846; Chief Justice from June, 1847, to January 5, 1855.

Robert Williams, who was born at Huntingdon, Pennsylvania, and moved to Muscatine, Iowa.

MAJOR WILLIAM WILLIAMS was born December 6, 1796, at Huntingdon, Pennsylvania. With other children of the early settlers he attended the district schools in winter and worked on the farm all summer. Upon his father's death, William Williams had to maintain the household until his two brothers were able to shift for themselves. He engaged in a mercantile enterprise for a while, but either did not like it or did not succeed, for he changed soon to another line of activity. The next business venture of this versatile young man was that of manufacturing salt on the Kiskiminitas

River. This occupation did not hold his interest very long, for shortly thereafter he moved to Pittsburgh and entered the employ of the Exchange Bank. He succeeded very well in this field of endeavor and was sent as cashier to the branch bank at Hollidaysburg, in which town he also served as a militiaman.

In 1849, an urge to see the west and virgin territory, took him by steamboat, horseback and foot to Muscatine, Iowa, accompanied by his son James. Major Williams kept a journal of his trip, which is interesting to peruse. Accompanying the journal are numerous sketches showing a fine artistic sense and skilled draughtsmanship extraordinary in a man of the frontier settlements. But that is not the most remarkable of this man's attainments. It is from the diary-like record of Major Williams that we are able to gain an idea of his family. The following notes, made at Burlington, Illinois, mentions his brother: "Tuesday, May 22nd . . . . I found my Brother Joseph holding Court here, him & his associates, Judges Kinney & Greene, both young looking men." Further reference to his immediate family and the fact that they must have had a servant are found in this entry: "Friday morning, May 24 (25)—Called to see Ann Brown, Black girl & found she was married & has three very pretty little Black Children. She was the most delightful creature. Showed me her children, boasted of her husband & she calls her oldest child Mary after sister May & little Mary, & her son she calls William after myself. . . ."

Major Williams and his son stayed but a short time in Muscatine for when asked if he would accept the post of sutler at the new military camp to be established on the Des Moines River, he accepted and was enrolled with the regular army. The Sac and Fox Indians had been moved by treaty agreement from Iowa to Indian Territory to make way for further settlers and to protect these pioneers from molestation Fort Dodge was to be established at the then northwest frontier. William Williams and his son, who accompanied him as clerk, journeyed to the camp, arriving August 23, 1850. An interesting account of the scene as it looked to the newcomers is found in a narrative left by Major Williams: "We arrived at the point designated on the 23rd of August, 1850. The officers and men of the detachment had served through the Mexican War, and many of them the Seminole and Florida wars, and from what they had heard of the country they were to be stationed in, they expected to find a region similar to Florida, covered with lakes, ponds, swamps, and destitute of timber, but they were agreeably disappointed. All were highly pleased with the location. The fine groves of timber, above and below, the pure springs of water and rippling streams, together with the appearance of coal, gypsum and other minerals, the building stone, and enchanting scenery, caused all the men to pronounce it the most beautiful part of Iowa they had ever seen. When the plans for building quarters, and the arrangement of the buildings

JUDITH LLOYD (McCONNELL) WILLIAMS

JAMES BLAKELY WILLIAMS

MARY AUGUSTINE (WILLIAMS) DUNCOMBE

MAJOR WILLIAM WILLIAMS

were under consideration, it was determined to build convenient as possible to the fine springs of water, and where they would be sheltered from the northwest winds by the timber. It was the instant opinion of all the officers at that time, that owing to the beauty of the location, and the resources of the country, at no distant day, a town of some importance would be built on the site."

No one, least of all William Williams, ever thought that he would be the founder of the imagined city. In July, 1853, the commanding officer of the fort received orders to abandon Fort Dodge and to construct at some distance away, farther northwest, what later was known as Fort Ridgely. Major Williams, his son and two or three discharged soldiers were left behind. William Williams learned that Fort Dodge was situated on the Des Moines River Grant, and was exclusively state property, so he immediately filed claim and proceeded to plot out the town of his dreams. In March, 1854, the survey was completed and the town of Fort Dodge began its existence. Major Williams labored ceaselessly to encourage settlers. He petitioned and secured the extension of postal service to the town and was rightly enough first postmaster.

Fort Dodge was becoming a thriving community by leaps and bounds. The removal of the garrison, however, encouraged marauding Indians, and upon petition Major William Williams was authorized by the then Governor Hempstead to organize a troop to protect the settlers. This he did without in any way intimidating the aborigines. A particular band of them, known as *Inkpaduta's Band,* were becoming increasingly belligerent. On March 21, 1857, news reached Fort Dodge that the settlements at *Lake Okoboji* and *Lake Spirit* had been wiped out. Stirred to a tremendous pitch Major Williams secured a confirmation of his authority from Governor Grimes, and on March 24th set out with three battalions for the scene of the massacre. The winter had been unusual for Iowa and travel was anything but swift and certain. Tremendous hardships were experienced by the expedition, which was unsuccessful in its attempt to capture the perpetrators. Major Williams at the age of sixty was a bulwark of strength to his group of tired, hungry men. As Captain Charles B. Richard of Company A read at the dedication of a memorial tablet in Huntingdon County Court House some years later: "To Major William Williams, an old man with wonderful powers of endurance and nerves of steel, all were attached. He endured all the hardships of the march and all the exposure and want, the same as any private, with no word of complaint." On the return trip a terrific storm overtook them and two of the men lost their lives. The remainder of the group reached Fort Dodge, and food and warmth, safely. This exploit and massacre are perpetuated today in a monument erected at Pillsbury Point, Lake Okoboji, finished and dedicated July 26, 1895. The plaque in honor of Major Williams occupies

the west face of the monument. On the commission authorized to erect it was John Francis Duncombe, Captain of Company B, son-in-law of Major Williams.

Calming the fears of the timid inhabitants Major Williams continued to build up the town of Fort Dodge, which was soon destined to become a city. During the course of the Civil War, William Williams, with the rank of captain, in command of Company B of the Iowa Northern Brigade of the regular army, constructed numerous stockades and blockhouses throughout the territory. When the war was over and everything returned to normalcy, the town increased so rapidly that it was created the city of Fort Dodge, and later the capital of Webster County, Iowa. Major William Williams was elected the first Mayor of the city, a fitting culmination indeed after all his years of effort and strife.

Major Williams' home life was a constant joy to his family and friends. He possessed a fund of jocular stories and was adept at mimicry. As a writer said of him in relation to this particular trait, "none escaped, not even Duncombe, his prospective son-in-law." The arts claimed much of the interest of the entire family, and aside from his sketching ability Major Williams was an accomplished violinist. His was the only house in the early days of the settlement to possess a piano, and his wife was a perfect player. In summation of this illustrious personage, pioneer and founder, this quotation from an article on Major Williams by former Governor Cyrus Carpenter is appropriate: "He was a man of sincere purposes, of patriotic impulses, of generous intuitions, and he was never happier than when performing the kindly offices of neighbor and friend."

Died, February 26, 1874, at Fort Dodge, Iowa.
Married, first, in 1830, Judith Lloyd McConnell, who died in 1842.
Married, second, in 1844, Jeannette J. Quinian.

Issue (by first wife):

1. James Blakely Williams, born May 11, 1836, in Hollidaysburg, Pennsylvania; sergeant Company I, 32nd Iowa Infantry Volunteers in 1812; self educated; oldest living settler in Webster County, at the time of his death; died August 25, 1903.
2. *Mary Augustine Williams;* married, in 1859, *John Francis Duncombe.* (See *DUNCOMBE.*)

Squire

EORGE SQUIRE, the American founder of the family of that name, was born in England, according to tradition at Peterborough, Northampton, in about the year 1618. Nothing has been discovered of his movements prior and up to his arrival in New England. He may have been at Concord, Massachusetts, sometime before the birth of a son, no name recorded, on March 11, 1643.

Having definitely located Mr. Squire at Concord in 1642/43, the subsequent activities of this prominent colonist are easily traced. The settlement there was notoriously ill situated. The stony soil and low lying meadows made farming very unproductive; so much so, that the not too light taxes became positively burdensome. In 1643 the planters petitioned the General Court for a lower tax rate having, as the annals state, failed to profit enough to keep two ministers in the town, aside from meeting other obligations. From that day on the colony at Concord gradually diminished, some of the settlers even returning to England. Of the group that remained many went to seek a livelihood elsewhere in New England. Of these was George Squire, who in 1644 accompanied approximately one-eighth of the remaining pioneers, who moved to "Uncowa," Connecticut, under the able leadership of Reverend John Jones.

"Uncowa," named in 1645, Fairfield, welcomed the group by presenting to them lots near a division of the town known as Newton Square. George Squire's lot lay between those of William Hill, Sr., and William Bateman on the Dorchester Street side of a block bound by Ludlow Avenue, Concord Street, Hill Avenue and Dorchester Street. The new arrivals made their influence felt soon after settling down, and not the least among them was George Squire. Sergeant Squire, as he was known in all existing town records, received the title as an officer of the train band in Fairfield. He must have been a man of judgment and something of an engineer as well as auctioneer, if minutes of town meetings can be taken as any criterion.

The colony was rapidly growing and further land known as the "Sasquafields" was purchased from the Indians for settlement. The necessary subdivision of this land into two large areas known as the east and west fields, as well as smaller allotments of approximately six acres, was placed in the hands of responsible men at the town meeting held on February 10, 1660/61. Sergeant George Squire and Nathaniel Seeley were appointed to survey and mark the east district. In the same year the town took cognizance of educational opportunities for the children by assessing each family sending a pupil of six years or more, a definite part of a total sum of £50, to be arrived at after a census and estimate were made by Sergeant Squire and Robert Turney. George Squire was often called upon in later years for much the same work that he accomplished in his first survey of land in 1660. In March, 1667, and again on January 30, 1671, he was selected to measure out specific land allotments for the inhabitants as well as to lay out necessary highways for ready access to them.

Another of his accomplishments was often exercised upon the request of the townsmen, namely his sales ability. In 1667 he was requested to sell "At an outcry the lands on the other side of the creek," and in 1685 "Sergeant Squire was instructed to sell at an "outcry at the beat of the drum" all the stray horses he could locate within the limits of the village. Again, in 1685, when "Wolves' Pit Plain" was acquired from the Indians it was voted that Sergeant George Squire should auction off at the training ground enough land to meet the purchase price. All his public life was not, however, in the surveying and sales fields, for on December 21, 1681, he was one of five men who drew up the agreement for the town to deliver to Richard Ogden, the site on Mill River upon his promise to operate a corn mill there. Incident after incident of similar nature could be enumerated to attest to the regard in which he was held by his fellow-townsmen. No better example of this genuine esteem can be given than to say that he was one of the few foremost men mentioned by name in the Fairfield Patent of May 25, 1685, signed by Governor Robert Treat, of Connecticut.

Died in 1691.

Married, probably in England, Ann ———.

Issue:

1. Thomas Squire; was a train band sergeant at Woodbury, Connecticut; died there, April 9, 1712; married, first, ———; issue, one child; married, second, Elizabeth ———; issue, nine children.
2. *George Squire,* of whom below.
3. John Squire, was a lieutenant in the train band in 1668; moved to Easthampton, Long Island; married probably Ann Edwards; issue unknown.

4. Samuel Squire.
5. Jonathan Squire, married Mary Seeley; made an agreement with his sons Jonathan and Nathaniel on August 26, 1723, whereby they took responsibility for the support of their sisters and sisters' children; issue, eight children.

II

GEORGE SQUIRE, son of Sergeant George and Ann Squire, was born *circa* 1647, in Fairfield, Connecticut. At the age of nineteen approximately, he with many others testified in the famous Benfield case, a trial of certain members of the colony who were accused of disloyalty in expressing opinions in favor of the French or Dutch. In part his testimony was as follows, concerning one of the township who had been previously termed, "a person who did no work of any kind . . . . it having been reported that a fleet of Dutch and French was coming to New England . . . . said he hoped he should get his foot aboard a man of warre once more."

In May, 1672, George Squire was made a freeman of the Connecticut Colony by oath. The young man, he was only twenty-five, had in the meantime married and was busy in the maintaining of a suitable home for his wife and son when he was suddenly stricken and died. This sad and untimely occurrence came only two years after his attaining the position of freeman. The widow and son were probably cared for by Sergeant George and his wife. The inventory of the unfortunate youth's estate was taken December 25, 1674, by William Ward and Samuel Morehouse with the father making the necessary oath.

The date of his marriage and the name of his wife have not been ascertained.

Issue:

1. *George Squire,* of whom below.

III

GEORGE SQUIRE, only child of George Squire, was born in Fairfield, Connecticut, in 1672. His activities are obscured by the lack, or non-discovery, of records. At an early date, however, he did move to Long Island, which at that time, was a part of the Connecticut Colony.

At Easthampton, George Squire remained only a few years and shortly after his marriage there, as inscribed in the records faithfully kept by the "Reverend Nathaniel Huntting," he returned to Fairfield. The baptismal register of the Church of Christ, in

the latter place, bears as well as the names of five children, the record of his baptism as an adult member in 1709.

In 1711 Mr. Squire and his wife moved to Durham, Connecticut, a village in Middlesex County, and there took up residence. He was probably the George Squire whose name appeared on the following town record: "The Town of Durham Deb'r to Sundry persons as allowed by the selectmen in December, 1728. To George Squire. . .£1/10/2." On the records of the "Church of Christ in Durham," as kept by the Reverend Nathaniel Chauncey, are recorded the baptisms of his children born after the arrival in Connecticut.

Married, January 29, 1701/02, in Easthampton, Long Island, Jane Edwards.

Issue:

1. George Squire, baptized December 6, 1702.
2. Daniel Squire, baptized January 30, 1703/04.
3. Ephraim Squire, baptized May 6, 1705.
4. Bethiah Squire, baptized October 20, 1706.
5. Jane Squire, baptized May 9, 1708; died young.
6. Jane Squire, baptized October 16, 1709.
7. *Samuel Squire,* of whom below.
8. Abigail Squire, baptized April 17, 1713/14.
9. Josiah Squire, baptized January 15, 1715/16.
10. Ruth Squire, baptized February 9, 1717/18.
11. Esther Squire, baptized January 17, 1719/20.
12. John Squire, baptized April 12, 1724.

IV

SAMUEL SQUIRE, son of George Squire and Jane (Edwards) Squire, was born *circa* 1711. He settled in Durham, Connecticut.

Died March 13, 1751/52.

Married Abigail ———.

Issue:

1. Charles Squire, born August 28, 1732; baptized September 3rd following; married Mary ———; issue, two children.
2. Abiathar Squire, baptized August 14, 1734; died young.
3. Samuel Squire, baptized March 21, 1735; died young.
4. Samuel Squire, baptized May 29, 1737; married, September 30, 1756, Anne Bishop; issue, nine children.
5. *David Squire,* of whom below.
6. Abiathar Squire, born November 15, 1740; baptized November 16th following; married, March 9, 1763, Mary Dudley; issue, six children.
7. Josiah Squire.

V

DAVID SQUIRE, son of Samuel and Abigail Squire, was born in Durham, Connecticut, and baptized at the Church of Christ by the Reverend Nathaniel Chauncey, February 18, 1738/39. He and his wife owned the Covenant, December 12, 1773.

Married, *circa* 1760, Huldah Bishop, daughter of William and Patience Bishop.

Issue:

1. Phineas Squire, born April 13, 1761; baptized September 20th following.
2. David Squire, born October 8, 1762; baptized November 28th following.
3. *Thaddeus Squire,* of whom below.
4. Tryphene Squire, born November 9, 1766; married a Mr. Ames.
5. Millesant or Millicent Squire, baptized March 12, 1769; married a Mr. Palmer.
6. Medad Squire, baptized October 23, 1774.
7. Bishop Squire.
8. Asa Squire.
9. Orin D. Squire, born in 1783.
10. Huldah Squire.
11. Rosanna Squire.

VI

THADDEUS SQUIRE, son of David and Huldah (Bishop) Squire, was born in Durham, Connecticut, August 19, 1764, and baptized by the Reverend Elizur Goodrich, of the Church of Christ, on the same day. A number of Durham freemen had moved to Granville, Massachusetts, and after his thirty-first year, Mr. Squire went to that town and settled. It is in Granville that the only record of the children of Thaddeus Squire has been discovered. Before his departure for Massachusetts he became a freeman in Durham, and is so listed on September 21, 1795.

While Thaddeus Squire no doubt saw service in those turbulent days of the Revolution, for he was then in his early twenties, unfortunately no extant record of it has been found.

Died, in Granville, Massachusetts, November 9, 1820.

Married, first, Anna Talcott.

Married, second, Amelia Hayden.

Issue:*

William Henry Squire, of whom below.

Sophia Squire; married a Mr. Hayden.

* The inscribed dates of birth in the Granville, Massachusetts, records are to be found in only five cases, and in no instance has the given name of the child so designated been noted, except in the case of William Henry Squire. The following dates of birth, 1797, 1800, 1803, 1809, 1810 of the issue of Thaddeus are given in the Granville Vital Records, but the name of the child for each year has not been listed, nor the name of the mother.

Nancy Squire, married a Mr. Lindsley.
Lyman Bishop Squire.
David Squire.
Talcott Squire.

VII

WILLIAM HENRY SQUIRE, son of Thaddeus and Anna (Talcott) Squire, was born December 17, 1797, in Granville, Massachusetts.

Married, October 9, 1828, in Granville, Charlotte Baldwin, daughter of Simon Baldwin, a resident of Granville. Numerous people bearing the name of Baldwin removed from Durham, Connecticut, in the great exodus of 1750, some of whom settled in Granville, Massachusetts, but no record has been discovered of the ancestry or parentage of Simon Baldwin.

Issue:

1. William Lyman Squire, born October 1, 1831.
2. Abigail Baldwin Squire; died in 1836.
3. Abigail Squire, married a Mr. Hand.
4. *Harriet Anna (Hattie) Squire,* of whom below.
5. Augusta Squire.
6. Emma Sophia Squire.
7. Wilbert Thaddeus Squire.

VIII

HARRIET ANNA SQUIRE, daughter of William Henry and Charlotte (Baldwin) Squire, was born in Granville, Massachusetts.

Died October 11, 1916.

Married *Reverend Fergus Lafayette Kenyon.* (See *KENYON.*)

Kenyon:

Catalogue of the Officers and Students of the Theological Seminary of the Presbyterian Church, 1862-63.
Roberts—Biographical Catalogue of the Princeton Theological Seminary.
Pierson, D. S.—History of the Oranges to 1921, Vol. 3, p. 537.
History of Lorain County, Ohio.
Who's Who in America.
Who's Who in Government, Vol. 11, p. 734.
Biographical Directory of the American Congress, 1774-1927.
Sullivan, M.—Our Times, Vols. 3 and 4.
Shippee, L. B.—Recent American History.
The Encyclopedia Americana.
McLaughlin and Tart—Cyclopedia of American Government.
History and Records of Iowa State University.
Directory of Graduates, The State University of Iowa.
Records of Grinnell College.
Annals of the American Academy of Political and Social Science, January, 1924.
New International Yearbook, 1911 to 1922.
Register of the Department of Justice.
"Dubuque, Telegraph Herald and Times Journal," September 10, 1933.
"Des Moines Sunday Register," September 10, 1933.
"The Atlantic News-Telegraph," September 11, 1933.
"New York Herald-Tribune," September 10, 1933.
"The Fort Dodge Messenger," September 10, 1933, etc.
"Des Moines Register and Leader," from December 9, 1910 to September 10, 1933.
"New York Times," from 1911 to 1933, particularly from February 1, 1922 to September 10, 1933.
"Review of Reviews," September, 1921, Vol. 64, p. 237.
"Nation," July 9, 1919.
"Public," January 25, April 19, and July 5, 1919.
"Independent and Weekly Review," July 19, 1919 and January 1, 1921.
"Forum," September, 1919, Vol. 62, p. 273.
"Review," November 15, 1919.
"Literary Digest," April 30, 1921.
"Current Opinion," April, 1922, Vol. 130, pp. 456-61.
"Outlook," January 17, 1917 and February 15, 1922.
"New Republic," January 13, 1917.
United States Daily, from July 22, 1927 to August 11, 1931.
The Legal Index.
Peters, United States Supreme Court Reporter, Vols. 5-8, p. 589 (copyright of judicial decisions).
United States Supreme Court Reports, U. S. 215-218, 219-221.
Opinions of Attorneys General, Vol. 28.
Federal Reporter, First and Second Series.
Northwestern Reporter.
The Congressional Record, Vols. 49 to 62, inclusive, from the Sixty-second Congress, Third Session, to the Sixty-seventh Congress, Second Session.
Report of the National Law Enforcement Commission.
State Documents.
Letters.
Incidents related by personal friends of the late Senator Kenyon.

Duncombe:

Visitation of County of Buckingham—Harleian Society Manuscripts, Vol. 58.
History of Erie County, Pennsylvania, Part VI.
Annals of Iowa—Series 3, Vols. 1 to 15.
Complete Peerage—Cokayne.
Landed Gentry of Great Britain—Burke.
Recollections and Sketches of Early Lawyers and Public Men of Iowa—E. H. Stiles.

Williams:

Annals of Iowa, Series 3, Vols. 1 to 15.
National Cyclopedia of American Biography, Vol. XII, p. 498.

Squire:

Schenck—History of Fairfield, Connecticut.
Fowler—History of Durham, Connecticut.
Lathrop—Black Rock: Seaport of Old Fairfield, Connecticut.
Jacobus—History and Genealogy of Families of Old Fairfield.
Mead—Abstract of Probate Records, Fairfield, Connecticut.
Savage—New England Genealogical Dictionary.
Welles—Births, Deaths and Marriages of Hartford, Windsor, and Fairfield, Connecticut.
Granville, Massachusetts, Vital Records to 1850.
New York Genealogical and Biographical Record, Vol. 24.

3239 1